

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

SEXUAL ASSAULT PROTOCOL

23AP1533

ORDER

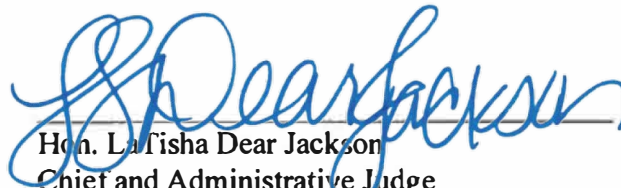
WHEREAS, the Legislature of the State of Georgia enacted O.C.G.A. Section 15-24-2 requiring the establishment of a Sexual Assault Protocol; and

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

WHEREAS, the Committee has determined there are no updates to the 2023 Sexual Assault Protocol from the 2022 Sexual Assault Protocol. A copy of the 2023 Sexual Assault Protocol 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 22nd day of December, 2023.


Hon. L. Fisha Dear 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 November 2023

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 31st 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 31st 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 perpetrated 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.¹

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

¹ 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 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. 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

guidelines established by the Georgia Crimes Victim's Right Bill and adhere to the Georgia Sexual Assault Certification Standards.

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

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

Helping victims deal with any problems encountered during the aftermath of the crime.

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

IV. HIV Testing

Testing the victim: When working with a victim who expresses concern about possible exposure to HIV during the assault, victim service providers with a trained public health/

medical staff member should discuss HIV testing with the victim. The victim service provider should review the victim's risk of infection and motivation to be tested, explain the testing process and the limitations of the test, and discuss the victim's possible reactions to the test results. The victim service provider can assist the victim in reaching a decision about being tested for HIV.

Testing the offender: In cases where the victim wants the offender tested for HIV, the victim service provider should review the issues involved. The victim should be informed that testing the offender will not negate the need for the victim to be tested for HIV. Regardless of the offender's HIV status, if the victim is concerned about exposure to the virus, the only way to determine this is for the victim to be tested. The victim should be aware that additional court appearances outside the criminal case may be needed for the court to order the testing. After explaining the intricacies of HIV transmission and the testing process, if the victim wants to pursue testing of the offender, then the victim service provider may assist the victim in this request.

Testing of the offender should occur at the earliest stage possible during the criminal justice process to provide for early medical intervention for the victim. Early testing of the offender could have a significant impact on the mental health of the victim and family members, on the victim's adjustment to the traumatic experience, and the victim's successful reintegration into a productive life. However, it should be noted that disclosing the results to a victim of an assailant who has not been determined guilty has not been addressed in legislation or in case law.

Aid Atlanta offers training to local agencies around HIV testing and other issues. They can be called at **404-870-7700** and offer free, confidential testing services in our community.

IV. Checklist: Victim Services

Initial Report (Community-Based Advocates)

- Determine if victim is in immediate danger.
- Ascertain if emergency medical assistance is needed.

- Help identify and address the immediate concerns of victim.
- Provide honest and realistic answers about law enforcement and the criminal justice system.
- Ask if victim wants to report the crime to police.
- Offer crisis counseling services.
- Caution victim against destruction of evidence.
- Arrange transportation to and from hospital.
- Establish interagency coordination procedures.

Sexual Assault Examination (Community-Based Advocates)

- Provide victim with emotional support during examination if the victim wants this.
- With victim's permission, discuss assault with family and provide support to secondary victims.
- Explain to the victim his or her rights and options, nature of the evidence collection and the physical exam.
- Upon completion of the physical exam and the taking of evidence, assure that the victim is provided with and understands the following information: hospital telephone number, name of physician, medical care and tests provided, directions for taking antibiotics, after effects of the morning after pill, follow-up needed, referrals for HIV tests.
- Provide 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.
- Ensure victim has clothing to wear home from hospital.
- Provide toiletries for use after the medical examination is completed.
- Give victim written information about crime victims' compensation and the Victims' Bill of Rights.
- Work with the medical staff so that the facility will allow with the victim's permission, the advocate to be present in the exam room.

- Work with the medical staff to develop a medical protocol incorporating the *SANE* program to standardize evidential examinations, care provided to patient, tests and medications needed, and follow-up needed.
- Provide the victim and those persons accompanying the victim with handouts explaining services available from the Day League and how the center will contact the victim after they return home to assist them.
- Provide education to the emergency room and other medical staff on how to respond to and to treat the emotional needs of the victim, and symptoms of the Rape Trauma Syndrome.

Crime Victims' Compensation (Community-based and System-based Advocates)

- Assist victim with completing application for victim compensation.
- Follow-up on application to ensure timely processing.

Investigation (Community-based Advocates)

- Know the Georgia Victims' Bill of Rights and work closely with law enforcement, prosecutors, local jail, Board of Pardons and Paroles, and Department of Corrections to ensure all procedures for notifications (from arrest to parole) are in place.
- Establish procedures to facilitate communication between law enforcement investigators and victim.
- Provide support for victim participation in the investigation.

Arrest (Community-based Advocates)

Make sure victim knows that law enforcement will inform the victim of the arrest of a suspected perpetrator and that the victim must keep law enforcement apprised of current address and phone number.

- Act as liaison between jail and victim so victim can be informed when there is a change in custody status of suspected assailant.

- Accompany victim to police line-ups and other proceedings (if needed).

Pre-trial (System-based Advocates)

- Establish procedures for notifying victim of case status and of postponements or changes in court appearances, using the Victims' Bill of Rights as a guideline.
- Provide victim with a written, concise explanation of the criminal justice system.
- Prepare victim for the possibility of questions from the prosecutor about the impact of the crime. Explain to the victim the purpose and use of the Victim Impact Statement, which would inform the prosecutor of the physical, financial, and emotional impact of the crime. Let victim decide whether or not to fill out this form at this time.
- Provide guidance for facilitating victim/prosecutor communications concerning plea negotiations, which is a discussion about the possibility of the accused admitting guilt without a trial in return for a reduced sentence.
- Determine who can provide notification about postponements or changes in court appearances.

Trial (System-based Advocates)

- Accompany victim to court hearings.
- Provide information for convenient parking for victims near the courthouse.
- If there is not a separate waiting area for the victim, request that the judge keep contact between the victim and alleged perpetrator to a minimum.
- Explain courtroom etiquette and procedures to victim.
- Prepare victim for the possibility of media coverage and questions.
- Arrange special assistance or transportation for victims with special needs (medical, handicapped, etc.)

Sentencing (System-based Advocates)

- Assist victim with the preparation of a Victim Impact Statement, if not already prepared.
- Communicate with prosecutor about whether victim will be allowed to speak about the impact of the crime during sentencing phase.
- Continue court accompaniment and support.

Post-sentencing (System-based Advocates)

- Explain to victim how to request notification from the Department of Corrections of change of perpetrator's status in custody (escape, death, transfer, etc.)
- Help victim update or prepare Victim Impact Statement to be mailed to the State Board of Pardons and Paroles and/or, if applicable, to the Probation Division of the Department of Corrections.
- Explain procedures for victim's being notified by the State Board of Pardons and Paroles of the release of inmate from the state prison system.
- Explain procedure for victim to appear in person at the State Board of Pardons and Paroles.
- If applicable, explain restitution collection and procedures.
- Remind victim to notify the Georgia Board of Pardons and Paroles or the Department of Corrections, Probation Division and the Probation Officer of any change of address or phone number. The address of the victim is confidential and will not be released to the inmate by the Board of Pardons and Paroles or the Department of Corrections.
- Explain to victim how to claim any personal property held as evidence.
- Provide guidelines for reporting harassment or violation of protection orders by perpetrator.
- Provide victim with name, address, and telephone number of the perpetrator's probation officer so that the victim may notify the probation officer of any unauthorized contact made by the perpetrator.
- Explain procedures regarding perpetrators who are put on probation or given split sentences, i.e., sentenced to prison followed by a period of parole and/or probation.

Ongoing Victim Services (Community-based and System-based Advocates)

- Provide referrals to victim for other community services.
- Provide continuing support or counseling as long as victim requests it.
- Offer a 24-hour crisis line for victims and their families.

Section 3

Law Enforcement Response

Many sexual assault victims are severely traumatized as a result of their attack. This trauma, coupled with the intensely personal nature of the crime, often leaves victims reluctant, embarrassed or afraid to report the assault to the police. An understandable apprehension about police and court procedures may further increase victim reluctance to report the crime and cooperate with law enforcement.

Police officers and detectives play a crucial role in overcoming the psychological hurdles which confront a victim and then obtaining the victim's cooperation in the assault investigation. Since a victim's ability to cope with the crime and its aftermath may prove critical to the ultimate success of criminal prosecution, it is imperative that law enforcement agencies always treat the victim of sexual assault with the utmost compassion while skillfully guiding the victim's potentially uncomfortable journey through the criminal justice system. However, law enforcement must also follow the evidence and making charging decisions based upon the evidence that has been amassed in any case.

Investigators must always remain sensitive to the individuality of each victim and the massive impact a sexual assault may have upon the victim and the victim's family and friends. An investigator should take into account not only the particular assault suffered by each victim, but the victim's age, physical abilities, culture, socio-economic status, gender identity and sexual orientation.

I. Responding to Victims: Role of Law Enforcement

The role of the investigating officer is to ensure the safety of the victims 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 shall be responsible for the investigation of sexual assault crimes. Investigative responsibilities may include:

- Identification, apprehension, and interrogation of suspect(s)
- Interview of victims with an offender focused and trauma informed approach, which

shall include allowing an advocate to be present, with the consent of the victim

- Interview of witnesses
- Collection and preservation of evidence
- Maintenance of chain of custody
- Timely submission of sexual assault evidence collection kits to GBI, FBI or other crime laboratory (at law enforcement's discretion) 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

Investigation officers will work with victim advocates to ensure a victim-centered response to the investigation and proper notification of case updates to victims. Additionally, law enforcement officers will operate under guidelines established by *The Georgia Crime Victim's Bill of Rights* (O.C.G.A § 15-17-1) and adhere to best practices as outlined in the *Georgia Sexual Assault Response Team*.

This section was developed to maximize the probability across the state of Georgia of providing consistently appropriate and sensitive treatment to victims and of successfully prosecuting the perpetrators of sexual assault. This is a model protocol, designed to be adapted by local communities. The protocol in no way diminishes the discretion of law enforcement in handling cases of sexual assault.

For further guidelines regarding the role of law enforcement in child sexual abuse evaluation, please refer to the local county or jurisdictional child abuse protocols.

II. Complaint Reporting Procedures – 911 Dispatcher

The first report of a sexual assault is usually made by the victim to a dispatch or communications center of a law enforcement agency. Dispatch or communications staffers are critical in aiding the victim to regain control and composure after an assault. The staffers should remain calm, understanding and non-judgmental while speaking with any victim.

A. If the victim is the caller, then the dispatcher may:

- Obtain the victim's name and location *immediately*;
- Determine if the victim is currently safe or whether or not the victim needs immediate medical attention;
- Dispatch the appropriate law enforcement units and, if necessary, emergency medical help;
- Maintain an open line with the victim in order to assure the victim that help is coming, to instruct the victim not to wash, change clothes or disturb any potential evidence;
- Determine where and when the attack occurred, the name or description of the assailant, the means used by the assailant to leave the scene, and the direction of the flight, and if any weapons involved
- Determine whether the suspect is known offender or stranger
- Determine any information about the suspect's history of violence and/or use or possession of a weapon
- Determined whether drugs or alcohol were used to facilitate the sexual assault; and

If it is immediately apparent to the dispatcher that the victim is unable to discuss the assault, then the dispatcher should simply seek to keep the victim calm until help arrives.

B. If the victim is not the caller:

The initial complaint may be received after the assault from a person the victim has contacted, such as a family member, friend, neighbor, or concerned citizen. The dispatcher should, through the caller, gather the same information previously described to assist the victim, while enlisting the help of the caller to keep the victim safe and calm until additional help arrives.

C. Emergency Communications

A record of calls, radio traffic and other communications pertaining to a sexual assault case may be preserved by the law enforcement agency receiving the complaint. The dispatcher may assist investigating detectives by making a copy of the calls, radio traffic and other communications immediately after the assault.

III. The Responding Law Enforcement Officer

The first law enforcement officer to reach a sexual assault victim is usually a uniformed police officer. This officer, as with others who investigate the case, should quickly develop a good rapport with the victim while initiating the gathering of evidence.

A. Immediate Response

1. The responding officer should first address the victim's *physical and medical* needs. Emergency first aid should be offered, if necessary, while awaiting an emergency medical response unit.
2. The responding officer must also address the *emotional* needs of the victim by remaining calm, sympathetic and understanding. The needs of the victim must always precede the demands of the investigation.

To increase the victim's emotional comfort and security prior to a transfer to a medical facility, the officer should explain to the victim the actions anticipated on the victim's behalf, including a physical exam.

A friend or family member of the victim may be requested to bring a change of clothing to the medical facility for the victim's use after the medical examination. However, in some medical facilities, the local rape crisis center will have provided the necessary clothing.

3. The officer should arrange for the transportation of the victim to the appropriate medical facility. The officer can transport the victim to the sexual assault center. If utilizing the Family Protection Center, transportation for the victim can be arranged by calling the 24-hour on-call number: 770-438-4532.

The officer should also ask the victim 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. The evidentiary importance of preserving personal clothing and articles from the crime scene should also be explained.

Even if a victim has already bathed or douched, the officer should nevertheless proceed to transport the victim to the appropriate medical facility.

4. The responding officer, if time permits, may also ask the victim some questions about the sexual assault. Questioning should be conducted by a single officer, in the greatest privacy available, and questioning should be limited in scope to crucial information immediately needed by law enforcement:
 - Name or physical description of assailant,
 - Jurisdiction of the assault
 - Unusual physical characteristics of assailant
 - Clothing of assailant
 - Method of flight (car, truck, on foot, etc.), and
 - Direction of flight
5. If the crime scene is known, efforts should be taken to preserve and process as per agency's best practices.
6. If the responding officer proceeds to the medical facility where the victim is taken, the officer should:
 - a. Remain at the medical facility until police detectives or investigators have arrived: and

- b. Thoroughly brief the medical staff and detectives on any information about the victim, the assault, the assailant, and the crime scene which the officer has obtained. These briefings should take place in a private setting where confidential information cannot be overheard by others.

B. Delayed Reporting

If more than 120 hours have elapsed since the incident of sexual assault and the victim contacts law enforcement, there is a possibility that some forensic evidence may remain up to five days in the victim's body or there may be evidence of tearing or other internal abrasions. For this reason, the victim shall be encouraged to seek medical care and to complete the medical evidence collection.

C. The Crime Scene

1. Crime scene should be preserved and processed in accordance with the agency's policies and procedures.
2. The victim's clothing and personal effects should be protected from all handling and contamination until preserved and processed in accordance with the agency's policies and procedures.
3. The responding officer, with the assistance of other officers, should guard the scene from any intrusion until the arrival of forensic officers.
4. A crime scene access log should be maintained by crime scene officers listing the full name of every person, police and civilian, who comes to the scene.
5. When there is a suspicion that GHB or any other "date rape" drugs have been involved:

- a. Interview bartenders, waitresses, patrons, parking lot attendants, security officers, neighbors or partygoers who may have noticed anything about the victim's departure. Also, whenever possible, retrieve any glass that the victim drank from, or unexplained, unmarked bottles where the drinks were being mixed.
- b. Check trashcans anywhere near where drinks were being mixed or near where the victim and/or suspect were sitting, or in the restrooms for unexplained, unmarked liquid or residue on the glass itself.
- c. When interviewing the suspect, be alert for the presence of empty blister packs or additional pills in their pockets or secreted in their wallet, clothing or car.
- d. Whenever possible, check both the location where the victim woke up and the location where the victim last remembers being present for any evidence and / or witnesses.

D. The Incident Report

It is imperative that the responding officer provide an accurate and *complete* report detailing the officer's activity. The report should include:

1. The date and time of dispatch and arrival at the scene, the nature of the dispatch, the location, and a description of the scene.
2. The identity of the victim (or a description if identity is unknown), the victim's personal information, including phone numbers and addresses for home and work, and the names, phone numbers and addresses of other persons who know the victim and who could be contacted if the victim could not be contacted.
3. A description of any injuries to the victim, the clothing of the victim, and any damage to the victim's clothing or personal possessions.

4. A careful description of the victim's *emotional* state.
5. Actions taken on behalf of the victim.
6. Actions taken to preserve the crime scene. Take photos of scene, victim, and suspect.
7. Preservation of cell phone records, tower locations, and social media
8. Information learned about the sexual assault, including:
 - The exact location of the assault;
 - The approximate time of the assault;
 - Whether a weapon was used, and if so, what kind;
 - How the victim and assailant came to the scene;
 - A description of the sexual assault;
 - The identity, if known, and complete description, including a clothing description and any other information obtained about the assailant from the victim or witnesses;
 - The means by which the assailant left the scene;
 - The assailant's direction of flight;
 - Any other information obtained from the victim;
 - The names, addresses and phone numbers of any witnesses identified by the victim or located by the police;
 - The statements of any witnesses interviewed at the scene;
 - The names of any law enforcement officers, including supervisors, detectives and forensic officers who came to the crime scene (access log) or medical facility;
 - Any other actions taken in the case; and
 - The exact time the officer left the crime scene and, if applicable, the medical facility.

IV. The Sexual Assault Examination and Law Enforcement

Law enforcement officers should *not* be present during the medical examination of the sexual assault victim. Any person, particularly a sexual assault victim, deserves a personal examination free of unnecessary, non-medical strangers.

In sexual assault cases where ingestion of drugs such as Rohypnol (flunitrazepam) or GHB or any other similar substance that impairs judgment is potentially involved, whether willfully or unknowingly taken, officers should conduct a very deliberate investigation. Even though not present during the examination, the law enforcement officer should ask medical personnel to take a urine and blood sample from the victim to be refrigerated and tested for Rohypnol (flunitrazepam) or GHB as soon as possible, since these substances dissipate quickly.

Voluntary consumption of illegal substance or alcohol should not be used to discredit or discourage the victim. Urine and blood samples should be taken for analysis by the GBI, FBI, or private lab. Blood sample can be taken within 24 hours of the assault and urine sample within 120 hours of the assault.

V. The Investigator's Role in Sexual Assault Cases

The lead investigator in a sexual assault case has the critical role in the successful prosecution of the case. The importance of obtaining an eventual criminal conviction, however, must be balanced against the necessity of protecting the victim's physical and emotional health.

A. The Investigator's Response

An investigator will usually be summoned to the medical facility where the victim has been taken.

1. The investigator should respond immediately to the facility.
2. The investigator should obtain a thorough briefing from the responding officer(s). This briefing, as in all discussions of the case, should be conducted quietly and discretely.
3. Each officer who responded to the crime scene, had contact with the victim, or came to the medical facility should be directed to file a detailed, written report on the case.

4. The investigator should conduct a thorough interview with the victim and should either write up the interview or audio tape it. During the initial contact, the investigator should:
 - a. Clearly identify himself/herself to the victim;
 - b. Verify the information obtained by the dispatcher and/or responding officer which may help the police locate the suspect;
 - c. Make certain that the victim understands what is being done on the victim's behalf;
 - d. Carefully note the emotional status and physical injuries of the victim for later inclusion in the case report; and
 - e. Inform the victim that a more detailed, thorough interview will be conducted at a later time.

5. The investigator may confirm that:
 - a. Action is being taken by other officers to locate and detain the suspect;
 - b. The crime scene, if known, is being protected and thoroughly processed;
 - c. Known witnesses are being interviewed;
 - d. Chain of custody is maintained and photographs obtained or arranged for, if needed;
 - e. The emergency phone calls and records of police traffic in reference to the case are preserved by the communications department for later use; and
 - f. All evidence available at the medical facility, including the clothing of the victim, is held.

6. The investigator should consult with the victim advocate/counselor and any family members or friends of the victim to explain the actions being taken by the police and to seek their cooperation and assistance in future contacts with the victim.

7. The investigator should arrange transportation home or to a safe location selected by the victim.

8. If appropriate, the investigator should assure that information about the suspect has been sent to other law enforcement agencies.
9. The investigator should verify that all the evidence obtained at the medical facility is correctly inventoried and prepared for transfer to the crime lab within the timeframes prescribed by law.

B. The Follow-up Interview (Preparation for the Interview)

After a sexual assault has occurred, an in-depth interview with the victim may be conducted after 48 hours, though it may take place within a week. The victim's physical and emotional health must remain paramount, and the interview should be held when the victim is no longer in crisis.

1. The interview should be held in a comfortable, private setting. A location should be selected which permits both visual and sound privacy and is free of unnecessary interruptions.
2. Accommodations should be made if the victim requests the presence of a victim advocate, relative or friend or needs an interpreter.
3. The interview should be video recorded in order to:
 - Document the details of the interview;
 - Preserve the interview to permit other authorized persons to hear the victim's account without requiring additional interviews; and
 - 1. Permit the presence of other persons, such as victim advocates, to be present at the interview.

C. The Interview of Victim

1. The investigator should be professional, compassionate, understanding and non-judgmental during the interview. The necessarily intimate communications with the victim demand tactful and sensitive questioning.

2. The investigator must remain aware at all times that the victim may have suffered psychological trauma far worse than any physical injury. Many victims experience a shock and anxiety which persists for hours, days, and even months after being attacked. Insensitivity to the victim can cause additional psychological harm to the victim and severely damage the investigation by diminishing the victim's willingness to cooperate with law enforcement. Conversely, a sensitive, caring investigator can bolster the victim's confidence and self-esteem and increase the victim's desire to assist with the investigation.
3. The investigator's role in connection with the investigation should be clearly explained to the victim. The victim should be informed why certain very intimate, perhaps embarrassing, questions must be asked, particularly about the assault itself. The victim should be assured that the investigator understands the difficulty of the interview and is more than willing to conduct the interview at a pace comfortable for the victim.
4. The investigator should use language that is readily understood by the victim. To the extent possible, the investigator should use the same terms, including slang, as the victim in order to build a rapport with the victim and increase valuable communication. If slang terms are used, the interviewer should use the terms unhesitatingly and without embarrassment.
5. Certain questions and inquiries are never appropriate. For example, victims should not be asked "did you enjoy it?" or "did you have an orgasm?"
6. The investigator should let the victim narrate what happened, in the victim's own words. Then follow-up questions can be asked **with the investigator explaining to the victim why those inquiries need to be asked**. The interview should be as thorough as possible. Inquiry areas should include:
 - a. The victim's prior relationship (if any) with the assailant;
 - b. Prior sexual history with the assailant, if any;

- c. The details of the forced act(s);
- d. The assailant's modus operandi;
- e. The assailant's clothing;
- f. The assailant's appearance, including marks, scars, tattoos, deformities, or unusual physical features or body odors;
- g. The assailant's means of restraining the victim;
- h. The victim's response to the attack, including any verbal or physical resistance;
- i. The victim's state of mind during the attack;
- i. The use or threat of weapons;
- j. What the assailant said to the victim, including threats and instructions;
and
- k. The names or descriptions of any other witnesses, participants or accomplices.

D. Post-interview Follow-up

- 1. After the interview has been concluded, the detective should obtain any additional physical evidence, such as photos, needed from the victim. The possible need of additional steps in the investigation, including composite drawings, photographic or live line-ups, should be explained.

E. Victim Follow-up

During the investigation of the sexual assault, and after the arrest of an assailant, the lead investigator or detective has a continuing responsibility to interact with the victim by:

- 1. Informing the victim when an assailant has been arrested;
- 2. Informing the victim of future investigative and prosecutorial activities on the case, including those which might require the victim's involvement;
- 3. Maintaining contact with the victim to ensure that appropriate support services are available; and

4. Working with prosecutors and victim agencies to develop the case and familiarize the victim with court practices and procedures.

F. The Interview of Suspect

1. Suspect interviews should be conducted in accordance with agency policies and procedures.

G. The Case Report

The lead investigating officer in a sexual assault case has the crucial responsibility of compiling *all* the information learned throughout the investigation. This compilation, the case report, will be the main source of information for the prosecutors handling the case. Therefore, it is imperative that every effort is made to be as thorough, accurate and informative as possible in building the report.

Sexual assault is a crime against the State of Georgia. As a result, the lead investigator, acting as an agent of the State, should swear to and sign the warrant documents. The victim generally should not be asked to sign these documents.

THE ARREST WARRANT SHOULD INCLUDE:

- The nature of the crime
- The location of the crime
- The identity of the victim
- Whether a weapon was used, and if so, what kind
- A description of the sexual assault

VI. Checklist: Law Enforcement

Emergency Dispatcher

- Ascertain safety of victim.
- Dispatch appropriate law enforcement units.
- Dispatch emergency medical care.
- Maintain an open line with the victim.
- Keep victim calm; advise that help is on the way.
- Request that victim not wash, change clothes, disturb crime scene, etc.
- If possible, obtain information from the victim about the sexual assault.
- Relay helpful information to officers.
- Preserve a record of emergency communications, including the victim's call, for later use as evidence.
- Quickly obtain the victim's name and location.

The Responding Officer (At the scene)

- Reach victim as quickly as possible.
- Determine victim's physical/medical needs.
- Request emergency care if needed.
- Calm and reassure victim.
- Inform victim of actions being taken.
- Prevent destruction of evidence by victim and others.
- Make arrangements for transportation of victim to medical facility.
- Contact family or friend.
- If appropriate, question victim about suspect's identity or description, clothing, method of transportation and direction of flight.
- Confirm that medical facility is notified.
- Request presence of detectives at medical facility.
- Request presence of Crime Scene unit, where appropriate
- Preserve integrity of entire crime scene.

- Preserve victim's clothing and effects
- Start crime scene access log.

At medical facility

- Remain at facility until detectives arrive.
- Brief responding medical staff on known facts of the case.
- Brief responding detectives on known facts of the case.
- Collect Sexual Assault Kit (SAK)

Incident report

- Date and time of dispatch, arrival at and exit from scene.
- Nature of dispatch.
- Describe location and condition of the scene.
- Identifying information on victim.
- Injuries/emotional state of victim.
- Requests for additional assistance, including officers.
- Actions taken for the victim.
- Actions taken to preserve crime scene.
- All information learned about assault from victim.
- All other information learned about case.

C. Victims' Bill of Rights

- Provide victim with written information about the Georgia Crime Victims' Bill of Right, O.k.C.G.A. § 17-17-1. (See Appendix, page 78).

D. Case Report

- Primary officer's incident report.
- Reports filed by other officers.
- Crime scene access log.

- Written statement of the victim.
- Copy of recorded statement of the victim.
- Statements of witnesses.
- Copies of recorded statements of witnesses.
- Lead investigator's case activity log.
- Lead investigator's case summary.
- Wanted poster/composite drawings.
- Photographic line-ups; admonitions.
- Reports of anonymous crime information from sources such as Silent Witness and Crime Stoppers.
- Statements of assailant: non-custodial.
- Statements of assailant to arresting officers.
- Statements of assailant to civilians.
- Constitutional rights; Miranda law.
- All of assailant's custodial statements to law enforcement.
- Copies of all recorded assailant statements.
- Diagram of crime scene.
- Photos of victim or victims.
- Photos of crime scene.
- Property and evidence forms.
- List of property in police custody.
- List of property sent to crime lab.
- NCIC criminal history.
- Local agency's criminal history.
- Juvenile history data.
- Probation/parole data.
- Booking photo of assailant.
- Reports on police calls to assailant's address.
- Reports on police calls in assailant's name.
- 911 calls on sexual assault case.

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

Section 4

Sexual Assault Examination and Evidence Collection

The DeKalb County Family Protection Center is the preferred location for all Sexual Assault Medical Examinations for all victims 16 years of age and older. All Sexual Assault Medical Examinations should be performed at the Dekalb FPC when possible. The FPC should be contacted once contact is made with the victim. All FPC partners will work towards having Sexual Assault Medical Examinations at FPC, unless additional medical treatment is needed or the victim declines.²

² While all sexual assault medical examinations should be performed at the FPC when medically possible (i.e. – no additional medical treatment is needed related to physical trauma), law enforcement and medical practitioners should also take into account the best interests of the victim at that time when making the determination as to where the sexual assault medical examination will occur.

III. The Sexual Assault Examination

A. Biologic Evidence Collection

The SANE, physician, nurse practitioner or PA will collect biologic samples with the consent of the patient, at the request of a law enforcement agency, the District Attorney's Office, the Medical Examiner or Coroner's office, a hospital or pursuant to a court order 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 evidence will be collected up to a maximum of 120 hours after the 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 proper chain of evidence.

Biologic samples collected for analysis can be collected up to 120 hours and may be submitted to the GBI Crime Lab, the FBI Crime Lab or other private lab *for* toxicology drug screen.

All biologic evidence collected with the consent of a patient who chooses to initiate and participate in and/or cooperate with a law enforcement investigation shall be picked up by law enforcement within a reasonable time to ensure the preservation of the evidence.

All biologic evidence collected with the consent of a patient who chooses **NOT** to initiate and participate in and/or cooperate with a law enforcement investigation should be retained by law enforcement for a minimum of one year. Such biologic evidence shall not be sent to the GBI Crime Lab.

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

B. Phases I

Phase I (1-30 minutes) begins at the time the victim presents to a health care professional or facility for examination. In this phase, the victim becomes a patient. The patient is triaged and screened medically, registered in the health care facility, informed that law enforcement officials will be notified, and asked to sign an initial set of consents. The consent of patients is not only required by law, but it is also one way to recognize and help them regain their sense of dignity as persons and to aid their transition from the status of victim to that of survivor. However, the patient should be informed that notification of law enforcement officials is mandatory in assault cases and does not require their consent. If necessary, emergency medical care is provided. Counseling and emotional support are always provided.

C. Phase II

Phases II and III comprise the core of the protocol. During Phase II (31-60 minutes), the health care professional informs the patient about the nature, duration, and sequencing of the medical examination and the collection of forensic evidence.

In order to preserve the patient's dignity and confidentiality, it is important to discuss these matters in a private office or secluded space with a counselor or other person present to support the patient. After informing the patient concerning what is to follow, additional consents are obtained, a secondary assessment is performed, and the history of the patient and the assault are taken. Note that while it is important to document the history of the patient and the assault as completely as possible, *the examiner should not inquire about or document irrelevant aspects of the patient's sexual history.* After completing documentation for this phase, a serum or urine pregnancy test is ordered on females with childbearing capabilities. Baseline Hepatitis B surface antibody and, with the patient's consent, HIV tests may be done at this time or within two weeks.

Special care should be taken to advise the patient of the implications of the HIV testing. In order to maintain anonymity, the patient may be asked to consider obtaining these tests through the public health department. Counseling and emotional support are continued, with special attention given to the implications of HIV testing. Provide information to victims on how to protect consensual sex partners against the possibility of HIV transmission.

D. Phase III

The actual medical examination and collection of forensic evidence are done together in Phase III (61-120 minutes). Any forensic evidence collected within 120 hours of the assault should be documented in the Georgia Bureau of Investigation/Division of Forensic Sciences Sexual Assault Evidence Collection Kit (GBI/DOFS). If patient indicates that the assailant licked or kissed any part of her body, these areas should be swabbed for potential saliva and subsequent DNA analysis. If after 120 hours, the medical examination shall still be performed in order for the findings or lack thereof can be explained in court. The findings of the exam should be documented completely, noting injuries on the relevant anatomical diagrams. In addition pictures, forensic by way of a colposcope or other image enhancing device, should be taken to be shared with the prosecutor. Prophylaxis for sexually transmitted diseases (STDs) should be offered at this point. Post-coital contraception may also be considered if the pregnancy test is negative, though the patient should be informed that this will cause the shedding of the lining of the uterus. After the examination and evidence collection are completed, the examiner should check the labeling of all evidence and package it as instructed in the assault kit. Deliver the assault kit and (with the consent of the patient) a copy of the medical record to a law enforcement official. *The official should sign for this material, establishing a "chain of evidence."* Counseling and emotional support are continued.

E. Phase IV

Phase IV (121-180 minutes) assumes the patient will remain for a brief period of time (e.g., 30 minutes) at the facility to be observed for possible complications that may arise due to medications given. Aftercare instructions and education are also provided at this time. The patient should be strongly encouraged to follow-up with subsequent treatments and to utilize supportive individuals or groups in the community who offer services to victims of sexual

assault. Any literature on or by these individuals or groups may be provided at this time. Counseling and emotional support are continued, though this support may shift to other providers.

F. Phase V

Phase V (181 minutes – 14 days) Because of further activities to be done, it will be necessary to ask the patient to return to the health care or public health facility for the Baseline Hepatitis B surface antibody, and HIV tests to be performed or, if done earlier, for the results to be provided. If post-coital contraception was given, a repeat pregnancy test is also performed. Counseling and emotional support are continued.

G. Phase VI

Phase VI (15-90 days) continues counseling and emotional support, and these are continued

H. Phase VII

through Phase VII (91-180 days). At 180 days, a repeat HIV test is given, if indicated.

IV. Collection of Forensic Evidence

Adequate and proper collection of specimen samples from the patient's body for forensic analysis is essential. The GBI/DOFS Sexual Assault Evidence Collection Kit is recommended for the evidence collection process. This kit is sufficient to collect samples from the patient's body to perform semen testing through DNA analysis. The instruction sheet provided in each kit should be followed explicitly for proper evidence and known hair collection. Inadequate collection and/or preservation of this evidence can eliminate the potential for suspect identification. Immediate air drying (no heat) of samples is critical for the optimum preservation of the evidence. All labeling or identifying information must be accurately completed. The label should include: the name of the patient, date and time of collection, sample source (or contents of clean paper bag when clothes are collected), and name of person collecting the sample.

An important function which can be provided by health care personnel is the microscopic examination for motile spermatozoa. This information can be valuable in estimating the length

of time since the sperm were deposited. The spermatozoa identified by the crime laboratory cannot provide significant information as to time of deposit because they have dried and are no longer living cells.

An evidence collection kit should be prepared if the assault occurred less than 120 hours before presentation, *even if the patient has bathed or showered*. Correlation of the case history with sample collection is essential to ensure that appropriate evidentiary materials are taken.

Fingernail clippings should be taken only if the case history indicates that the victim vigorously scratched an attacker. When no apparent blood or tissue is seen, scraping usually results only in identification of the patient. The fingernails should be examined for visible bloodstains or small clumps of tissue, which, if seen, should be collected using sharp tweezers or other clean instrument appropriate for removing the material.

Plucking to obtain reference hair standards is no longer the only acceptable collection technique. A *clean* fine toothed comb may be used to *obtain* the needed 25 or more random hairs from the head and pubic areas *after* the combing for foreign hairs is completed. Reference hairs obtained by combing may be suitable for a microscopic comparison to questioned hairs found on the victim's body, clothing, or other locations. If it is not possible to obtain the 25 hairs by combing, it may be necessary to have these plucked at a later time. This collection should be performed at the earliest possible time for the optimum forensic analysis.

Blood tubes are not provided to obtain a known blood sample from the patient during the medical examination. If needed, this sample is preferably collected after the DOFS laboratory has identified spermatozoa and a suspect has been indicated.

If the medical personnel suspect that the patient is under the influence of a *drug facilitated sexual assault* or "date-rape" drugs and law enforcement requests the collection of the evidence, s/he should obtain a urine and blood specimen (*50 ml of urine and 20 ml of blood in a grey top tube*) and label with the patients name and your signature. Seal the blood and urine specimen in a Drug-Facilitated Sexual Assault Victim Toxicology Kit, if available or a DUI Kit and process *it* as with other DUI Kits. Most hospitals do not test for Rohypnol and GHB specifically.

Therefore, the Patient Representative must call the detective to immediately come to pick up the samples and take them to the GBI lab for preservation and analysis.

Each jurisdiction is responsible for providing the hospital or medical facility with the Sexual Assault Evidence Kits and the Drug-Facilitated Sexual Assault Victim Toxicology Kit. The Kits must be properly labeled with the agency name and case number. All kits shall be picked up by the responsible agency and delivered to the GBI/DOFS laboratory **within 120 hours of evidence collection.**

V. Summary

The sensitive treatment of sexual assault victims and the careful collection of the forensic evidence related to their assault will require much of health care providers. But this same sensitivity and carefulness will also do much to aid the transition of the patient from victim to survivor and the prosecution of the perpetrators of such crimes. The Sexual Assault Examination and Evidence Collection form will be successful to the extent that it furthers these two purposes.

VI. Checklist: SANE, physician, nurse practitioner or PA will:

- The medical facility must obtain informed consent from the victim explaining all tests and procedures, which will be given.
- Gather and document the medical forensic history
- Perform the examination and assessment, and coordinate treatment of injuries
- Perform and complete the medical forensic examinations and biologic evidence collection as quickly as possible after a report is received
- Complete appropriate authorizations relating to the examination, documentation and evidence collection (i.e. patient's informed consent)
- Photograph and document injuries and prepare a report
- Maintain and document the chain of custody of any evidence collected during the examination and assessment
- Adhere to best practices as outlined in the Georgia Sexual Assault Response Team Guide

- Conduct the Medical Forensic; Examination .in accordance with GBI procedures using a GBI Sexual Assault Evidence Kit and in accordance with the National Protocol for Sexual Assault Medical Forensic examinations.
- Provide information, treatment, and referrals for STIs and pregnancies
- Follow CDC Guidelines in offering HIV PEP
- Follow-up as needed for additional treatment and/or collection of evidence
- Provide testimony at trial

Section 5 PROSECUTION

I. Victim Expectation and the Role of the Prosecutor

While a survivor/victim's opinion is always taken into consideration, decisions to prosecute and how to ultimately dispose of a case are within the discretion of the prosecutor assigned and based upon law and evidence. The following recommendations are made in an attempt to address the issues in the prosecution of the case.

II. Notification and Crime Victims' Bill of Rights

A. Prosecutors should assume ultimate responsibility for informing victims of the status of a case in accordance with the Crime Victim's Bill of Rights (O.C.G.A. 17-17-1 et seq.) This responsibility includes the following specific statutory requirements;

1. Upon initial contact with a victim, a prosecuting attorney shall give prompt notification to the victim of the following:

- a. The procedural steps in processing a criminal case.
- b. The rights and procedures of victims under the Victim's Bill of Rights.
- c. Suggested procedures if the victim is subjected to threats or intimidation.
- d. The names and telephone numbers of contact persons at both the office of the custodial authority and in the prosecuting attorney's office ((O.C.G.A. 17-17-7(a)).

- B.** Whenever possible, the prosecuting attorney shall notify the victim prior to any proceeding in which the release of the accused will be considered. ((O.C.G.A. 17-17-7(c)).
- C.** Whenever possible, the prosecuting attorney shall offer the victim the opportunity to express the victim's opinion on the release of the accused pending judicial proceedings ((O.C.G.A. 17-17-7(d)).
- 1.** If requested in writing by the victim and to the extent possible, the prosecuting attorney 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 prosecuting attorney shall notify all victims of the requirement to make such request in writing. ((O.C.G.A. 17-17-7(b)).
 - 2.** The prosecuting attorney 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 ((O.C.G.A. 17-17-11)).
 - 3.** Upon written request of the victim, the prosecuting attorney shall notify the victim of the following:
 - 4.** That the accused has filed a motion for a new trial or an appeal of his or her conviction.
 - 5.** Whether the accused has been released on bail or other recognizance pending the disposition of the motion or appeal.
 - 6.** 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.
 - 7.** The result of the motion or appeal. ((O.C.G.A. 17-17-12(a)).

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 ((O.C.G.A. 17-17-12(b)).

To ensure that the above statutory requirements are satisfied each prosecutor should establish procedures compatible with a particular jurisdiction.

D. Prosecutor's offices should establish and maintain direct liaison with victims and with Victim Assistance Programs.

III. Prosecutors' Communication with Victims Checklist:

- 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. electronic pagers, 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.

IV. 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:

A. The availability and extent of cooperation from the victim.

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

IV. General Procedures for Handling Sexual Assault Cases

A. Assignment of Cases

Once identified, sexual assault cases should be assigned, whenever possible to an attorney who has been designated to deal specifically with these types of cases. From the time of assignment, reasonable attempts should be made to employ “vertical prosecution,” i.e. if an attorney is initially assigned a particular case, then that attorney should handle the case from pre-indictment until its final disposition.

B. Initial Screening

After assignment, the prosecutor should initially review sexual assault cases as soon as possible; the purpose of this initial screening is to determine what additional investigation needs to be done in preparing the case for disposition. In conducting this initial screening, the prosecutor should consider the facts of the case and the following variables:

1. The extent or seriousness of the injuries.
2. Whether or not the assault involved a gun or other weapon.
3. The defendant’s prior criminal history.
4. Status of the defendant’s arrest
5. Victim cooperation
6. Presence and amount of information and evidence of the assault.

As part of the initial screening, the prosecutor should make a diligent effort to contact the victim as quickly as possible upon receipt of a case. During this initial contact, the following information should be reviewed with the victim:

- a. It is the State, not the victim, which must determine what disposition is to be

made of the case. This is particularly important in cases in which the victim's attacker is a family member or close friend.

- b.** The victim willingness to testify at trial.
- c.** The parties in the action are the State of Georgia and the defendant.
- d.** Whether the victim knows the attacker, whether the defendant has talked to the victim after the incident and what was said.
- e.** Convey that the victim is not responsible for the defendant's behavior; the defendant bears that responsibility.
- f.** Encourage the victim and tell her or him that they are not alone.
- g.** Determine whether or not the victim has received the statutory required notices and information, and refer to those agencies, which may be in operation in the community to assist sexual assault victims.

In the event that the victim is hostile or is otherwise unwilling or unable to cooperate with the attorney in the prosecution of the case, then it will be necessary for the prosecutor to determine if there exists sufficient independent evidence to prove the elements of the assault. Such independent evidence may include but is not limited to the following:

- a.** Availability of the victim.
- b.** Injuries observed by someone other than the victim.
- c.** Medical reports/evidence of the assault.
- d.** Eyewitnesses to the crime or independent evidence of assault.
- e.** A 911 tape or other recording of a prior statement of the victim concerning the assault.
- f.** The presence/availability of physical evidence indicating the crime occurred, i.e., semen, blood, etc.
- g.** Admissions by the defendant.
- h.** Any and all photographic evidence gathered at the scene or subsequently.
- i.** Any and all electronic and social media evidence gathered at the scene or subsequently.
- j.** Past history of assaults, whether charged or uncharged, by the defendant.

If a victim is unwilling or unable to cooperate in the prosecution of the case but sufficient independent evidence exists, then the prosecutor may pursue the case. If such independent evidence does not exist then the prosecutor may dismiss all charges and immediately notify the victim of this action.

C. 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:

1. Any corroborating witnesses should be interviewed.
2. Name, addresses and phone numbers of all witnesses are included in the case file.
3. A complete criminal history of the defendant is in the file.
4. Where applicable, photograph of the victim's injuries have been received and reviewed.
5. Contact has been made with the community-based advocate, who has been working with the victim.
6. All police reports have been received and reviewed.
7. Results of all reports surrounding the case have been received and reviewed
8. 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.

D. 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 his/her 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.

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.

E. Preliminary Hearings, Arraignment and Bail Hearings

1. Make every effort to discuss desired conditions of release with sexual assault victim prior to bail hearing.
2. Request that any release on bond include protection orders for the victim.
3. 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.
4. When possible, allow the victim to express concerns about the danger posed by the suspected assailant.

F. Plea Negotiations

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

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

G. Trial

1. Provide separate areas for victims and defense witnesses.
2. Provide court accompaniment for sexual assault victim.
3. Keep victim informed about court schedules: dates, times and places.
4. If requested by victim, provide information and explanation to employers for victims, their teachers, as to the necessity of the victim's presence at proceedings.

H. Sentencing

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

I. Post Sentencing

1. 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.
2. Whenever possible, accompany victim to any parole hearing.
3. Provide priority prosecution for violations of release conditions.

V. Sexual Assault Kit Initiative (SAKI)- Metro Atlanta Sexual Assault Task Force

A. Sexual Assault Kit Backlog

In September 2015, the Criminal Justice Coordinating Council (“CJCC”) was awarded the Sexual Assault Kit Backlog Elimination Grant by the Office of the District Attorney of New York (“DANY Grant”). The purpose of the DANY Grant is to provide funding to governmental agencies to test untested Sexual Assault Kits (SAKs). CJCC convened a work group consisting of identified experts in the field of victim advocacy, forensic testing, prosecution and investigation using the resource of the state’s Sexual Assault Response Team Expert Committee and other identified local experts (the “SAK Work Group”).

B. Metro SAKI Task Force

The State of Georgia’s Criminal Justice Coordinating Council (CJCC), in partnership with the DeKalb County District Attorney’s Office, the Prosecuting Attorneys Council, the Atlanta Police Department, and the Cobb County District Attorney’s Office, have been awarded funds through the Bureau of Justice Assistance’s (BJA) FY 2017 National Sexual Assault Kit Initiative (SAKI) grant program for the formation of a statewide, multi-jurisdictional SAKI Task Force.

The SAKI Task Force is charged with investigating and prosecuting cold case sexual assault cases arising out of this increased testing. The SAKI Task Force is comprised of prosecutors and investigators from DeKalb and Cobb counties, an Atlanta Police Department investigator, two victim advocates from LiveSafe Resources, court- based advocates, and a SAKI Coordinator.

While each judicial circuit will make the ultimate decision regarding the prosecution of cases in their respective jurisdictions, the SAKI Task Force members will work collaboratively to investigate, prepare and assist with the

prosecution of these cases. The SAKI Task Force is co-located at the DeKalb County Fire and Rescue Building in Tucker, Georgia.

C. Sexual Assault Cold Case Investigation

The Metro SAKI Task Force shall oversee the testing of SAKs under the DANY Grant as well as the process for investigation and victim notification on cold cases that may be re-opened due to testing results.

They will contact the specified agency for assistance when a cold case sexual assault offender is identified from that specific jurisdiction. In order to evaluate the viability of a case for prosecution, they will need access to the original case file. If after evaluation the SAKI Task Force chooses to proceed with the case, the Task Force will lead the investigation and subsequent prosecution of the case.

D. Victim Notification

The SAKI Task Force has developed a Victim Notification Protocol (attached) as a guide in conducting victim notification in cold case sexual assaults. Each law enforcement agency shall contact the SAKI Task Force once their agency receives a CODIS HIT involving a cold case sexual assault. The SAKI Task Force will make the initial victim contact. The law enforcement agency should not make contact independently with the victim.

I. Understanding and Agreement

The foregoing document reflects a cooperative effort on the part of DeKalb County social services, mental health, education, and criminal justice organizations to continue to improve and refine their response to cases of sexual assault in DeKalb County.

The undersigned agency, department and judicial representatives commit themselves and their organizations to the implementation of the procedures as outlined in this protocol. It is understood that the adoption of this protocol is an ongoing process of cooperation and coordination to facilitate the effective handling of sexual assault cases in DeKalb County in such a way as to minimize trauma to the victim and obtain effective remedies to prevent further abuse.

The protocol is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. The protocol shall not limit or otherwise restrict a prosecuting attorney in the exercise of his or her discretion nor in the exercise of any otherwise lawful litigative prerogatives. The law controls the provisions of the Protocol.

The signatories to this protocol are committed to continuing as an interagency committee as required by law and to periodically review and refine this interagency protocol for effectively preventing and responding to sexual assault in DeKalb County. In so doing, the protocol committee will identify critical issues, needs and resources required to facilitate and enhance the prevention, investigation, prosecution, and treatment of sexual assault in DeKalb County.

The protocol committee will meet at least semiannually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating the same and for the purpose of preparing and issuing its annual report required by law.



Edward Chase, Chairperson

DeKalb County Sexual Assault Response Team Protocol Committee

Signatures



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