

SART Protocol

Chattahoochee Judicial Circuit Protocol for Responding to
Victims of Sexual Assault

August 2021

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Acknowledgments

The Chattahoochee Judicial Circuit Protocol for Responding to Victims of Sexual Assault was developed by the Sexual Assault Response Team Protocol Subcommittee. The document was compiled and edited in 2015 by the Subcommittee and the Sexual Assault Support Center. It was revised in 2019 and 2021 to reflect the SART Membership input and to reflect Georgia's Sexual Assault Response Team Guide, the International Association of Forensic Nurses (IAFN), and the International Association of Chiefs of Police (IACP) best practices standards. We would like to express our appreciation to the Criminal Justice Coordinating Council and to the members of the Sexual Assault State Expert Committee for their dedication, support, and guidance demonstrated in creating the Georgia SART Guide, much of which is reflected herein. Please refer questions and comments to: info@thecenterat909.org or kbair@thecenterat909.org



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The protocol should be used by health care providers, including hospitals, all branches of law enforcement including prosecution, and programs which assist victims. This is a victim centered approach to services, with an emphasis upon letting a victim regain control over decisions through involvement in the process. As a “living document,” the protocol reflects current best practices in responding to sexual assault. We invite readers to contact The Center at 909 to recommend and share information on emerging best practices that will contribute to the continued development of this protocol.

SART Overview

What is a Sexual Assault Response Team (SART)?

The Chattahoochee Judicial Circuit and the Sexual Assault Protocol subcommittee define a SART as a multidisciplinary response team that provides specialized immediate response to victims of sexual assault by implementing a comprehensive, sensitive, coordinated system of intervention and care for sexual assault victims. The SART team is (minimally) comprised of representatives from Law Enforcement, Sexual Assault Nurse Examiners (SANE), Advocacy and Prosecution. A SART is designed as a vehicle for collaboration, relationship building, training, education and accountability among and between professionals, making the most of limited public resources. Although there may be similarities between agencies and services provided, this protocol focuses primarily on adolescent and adult victims (ages 15 and older).

A SART provides an opportunity to:

- Develop and establish protocols to provide a seamless guideline that ensures victims and responders are well-informed and that the needs of the victim and the needs of the criminal justice system are considered throughout the process.
- Educate the criminal justice system and the community to raise awareness of sexual assault, decrease victim blaming and increase offender accountability.
- Seek feedback from victims of sexual assault to expand understanding of sexual assault dynamics, improve criminal justice system response, and assess effectiveness of the team.
- Build relationships with individual responders to sexual assault that guarantee the opportunity for resolution in the event of a challenge or miscommunication among members of the SART.
- Identify valuable community resources.
- Become familiar with the roles and responsibilities of each discipline that responds to sexual assault, and allows for the sharing of information, knowledge and expertise among team members.

A primary goal of a SART is to reduce further trauma to a sexual assault victim(s) as they access the criminal justice system allowing the victim to see the criminal justice system as an ally that gathers relevant information fairly and without prejudging the facts. SARTs also strive to mitigate the effects of sexual assault on victims and their families, hold perpetrators accountable, enhance community safety, and prevent future victimization. In order to accomplish these goals, a SART must be able to distinguish between obtaining a criminal conviction/sentence and what the victim would experience as having achieved justice. Justice is served when victims are listened to, believed, taken seriously and included in the criminal justice process (if they desire). This is particularly important since one reason victims give for not reporting a sexual assault is fear of not being believed. It is important to the safety of a community that victims believe that reporting to and participating in the criminal justice system is a safe and viable option.

The mission of a SART is to provide a sensitive and competent multi-disciplinary response, to support efforts to restore well-being to the victim, and to bring the offender(s) to justice. To accomplish this mission, the goals of the SART are to:

- ensure competent, coordinated, and effective intervention
- provide a sensitive and caring response to victims of sexual assault by all disciplines
- ensure cultural competency

- ensure complete, consistent, and accurate case investigations
- provide high quality and consistent forensic medical¹ examinations
- ensure the provision of medical and forensic follow-up care
- provide crisis intervention and follow-up counseling referrals
- effectively support the mission of the criminal justice system



A Victim-Centered Response

A victim centered response includes:

- Prioritizing the safety, privacy and well-being of the victim.
- Developing and implementing training designed to ensure responders are adequately equipped and knowledgeable in responding to victims.
- Recognizing that victims are never responsible for the crimes committed against them.
- Recognizing that offenders are always responsible for their crimes.
- Acknowledging and respecting victim's input into the criminal justice response.



An Offender-Focused Response

A SART is also offender focused. An offender focused response acknowledges that offenders purposefully, knowingly and intentionally target victims whom they believe they can successfully assault. This includes potential victims who offenders perceive as vulnerable, accessible and/or lacking in credibility. The victim's perceived lack of credibility is seen by the offender as an assurance of their ability to escape accountability for the offense. Unfortunately, a lack of focus on the offender oftentimes is exactly what the offender needs to continue offending. Therefore, an offender focused response draws attention to the actions, behaviors, characteristics and prior criminality of the offender.

An offender focused response requires knowledge of the nature of sex offenders. An offender focused response considers the following:

- Sex offenders are often repeat or serial offenders.
- Sex offenders often target people they know.
- Sex offenders are often practiced liars who have a history of avoiding detection through deception and manipulation.

Successful SARTs incorporate their knowledge of sex offenders into the investigation and prosecution of sexual assault cases while keeping an open mind about the facts and not prejudging the facts during the course of an investigation.



Measurable Objectives

Every team needs goals and objectives to ensure they are fulfilling their mission. Objectives that are measurable provide a "road map" of progress. Possible objectives are:

- Gathering victim feedback in a predetermined number of cases
- Reviewing 4 to 5 cases every year
- Using case reviews to develop recommendations for system response
- Periodically reviewing sexual assault data to assess effectiveness of the team



¹ The terms "medical forensic examination" and "forensic medical examination" may be used interchangeably throughout this document. Please note that when discussing the exam itself, the exam will be referred to as the "medical forensic examination" as the patient takes precedence over the collection of evidence.

Written Member Roles and Responsibilities

Ideally, SART members will have the power to make decisions and effect change within their own organization about how their organizations respond to victims of sexual assault. This is especially important early on in the development of a SART. A SART should develop a document outlining the structure of the team and who is responsible for what. Possible responsibilities include:

- Facilitation of a meeting
- Note taking during the meeting
- Arranging meeting space
- Distribution of the agenda
- Following up as necessary on action items



Case Review

The primary purpose of the SART is to improve the system response to victims of sexual assault. The case review process provides an opportunity for the team to identify successes and challenges in response using specific sexual assault cases. It is crucial for teams to have a confidentiality policy in place prior to any case discussions and to have an understanding of the limits of an advocate's ability to share confidential information with other team members.

A victim centered response recognizes the importance of when, how, and what information is shared within the team and places paramount importance on the safety and confidentiality of the victim. It is vital for team members to understand and respect that the victim advocate is unable to share any information without written consent of the victim. Team members should recognize the importance of confidentiality and develop a written agreement that recognizes the crucial role that confidentiality plays in communications between a victim and an advocate.

A SART should also develop a mechanism to solicit feedback from victims about their experiences with the system response. Feedback can be solicited in a variety of ways including in-person, by phone, written surveys or responses, or focus groups. Feedback can be used by the SART to assess and improve the SART process.

Purpose of the Protocol

Sexual assault is a crime of violence against a person's body and will. Sex offenders will use psychological and physical aggression to victimize, often threatening a victim's sense of privacy, safety, and well-being. Sexual assault can result in physical trauma and significant mental anguish and suffering for years after the assault.

Yet less than one third of all sexual assaults are ever reported to law enforcement.

Victims may be reluctant to report and to seek medical attention for a variety of reasons. For example, victims may blame themselves for the sexual assault and feel embarrassed. They may fear their assailants or worry about whether they will be believed. A victim may also lack easy access to services. Those who have access to services may perceive the investigation and medical forensic examination as yet another violation because of its extensive nature in the immediate aftermath of the assault. Rather



...less than one third of all sexual assaults are ever reported to law enforcement.

than seek assistance, a sexual assault victim may simply want to go somewhere safe and clean up and forget the assault ever happened.

Hence, the first contact after a sexual assault is critical to the victim's recovery.

Responders at every point of contact can dramatically impact the victim's emotional well-being and ability to accept and respond positively to continued investigative efforts. Sexual assault investigations must focus on the medical care of the victim first and the investigation second.

It is the expectation of our community that all sexual assault victims will be treated with respect and appropriate attention will be given to their emotional and physical needs, regardless of their decision whether or not to participate in the criminal justice process. It is also the expectation of the community that:

- Investigations will be based on facts presented.
- Interviewers will use techniques specially designed for sexual assault cases.
- Evidence will be properly identified, documented, sensitively collected and preserved.
- Law Enforcement Officers, Victim Advocates, SANEs and other medical professionals will work closely as a team.
- Efforts will be directed toward the respectful and sensitive treatment of victims and successful investigation and prosecution of sex offenders.

Our community understands that every effort made to relieve a victim's feelings of shame and/or self-blame, to regain a sense of control of their lives, and to ensure that all victims are treated professionally and with dignity, will enable victims to provide the clearest and most thorough information about the crime.

The original protocol was completed in 2015 by the sexual assault protocol committee for the Chattahoochee Judicial Circuit pursuant to **O.C.G.A. § 15-24-2**. The protocol is intended to:

- Facilitate a circuit-wide coordinated community response to sexual violence and standardize the quality of care, evidence collection and documentation as supported by the Violence Against Women Act of 2005 (enhanced by the 2013 reauthorization). Such a response can help victims gain access to comprehensive immediate care, minimize trauma, and encourage use of community resources.
- Ensure 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.
- To promote better and more victim-centered care, support, and evidence collection and documentation, in order to increase reporting and ultimately hold offenders accountable; and
- Delineate the separate roles and responsibilities of responders and establish procedures for interagency coordination and collaboration, thus strengthening relationships between agencies and creating objective uniform standards that will improve overall victim care, and investigation and prosecution of sexual assault cases.

In this edition, we have updated laws and best practices. This includes House Bill 255, also known as the Sexual Assault Reform Act of 2021. This legislation requires the submission of sexual assault protocols to the Criminal Justice Coordinating Council, provides for a statewide Sexual Assault Kit Tracking System (SAKTS) and related reports, and requires law enforcement agencies to enter certain information into the FBI's Violent Criminal Apprehension Program (ViCAP). Refer to [Appendix E](#) to see the bill's wording in its entirety.

We have also addressed several issues that we learned from our partners in this vital work. For those of you who have used the original guide, please see the new sections:

- [Media](#)
- [Body-Worn Camera Considerations](#)
- [School Resource Officers](#)
- [DNA in Sexual Assault Cases](#)
- [Utilizing the Violent Criminal Apprehension Program \(ViCAP\)](#)
- [Self-Administered Sexual Assault Evidence Collection Kits](#)
- [Audiotaping or Videotaping the Forensic Medical Exam Interviews](#)
- [Faith Considerations](#)

We have also included the following legislative updates in [Appendix F](#):

- House Bill 231 Stalking and Protective Orders
- Senate Bill 75 Stalking and Residential Leases
- House Bill 141 Georgia Crime Victims Emergency Fund
- Senate Bill 33 Perpetrators of Human Trafficking
- Senate Bill 34 Name Changes for Human Trafficking Victims

Organization and Guiding Principles of the Protocol

When sexual assault does occur, victims deserve a coordinated, competent, and compassionate response from this community. For individuals who experience this horrendous crime, having a positive experience with the criminal justice system, medical professionals, and victim advocates can contribute greatly to their overall healing.

This protocol is guided by the following key principles that support a victim-centered response to the crime of sexual assault:

- Recognition that responders at every level play a significant role in both the victim's ability to cope with the emotional and psychological after-effects of the crime and the decision to participate in their investigation.
- Awareness that a victim's acute distress may create an unwillingness or psychological inability to assist the criminal justice system.
- Understanding that providing victims with information about available resources, and the possible outcomes of choosing one option or another, will help a victim make informed decisions and will assist in their healing.
- Respect for the right of adult victims to choose not to participate or to delay participating in the criminal justice system, pursuant to **O.C.G.A. § 17-5-71** and **§ 17-5-72**.



This means that responders at every level recognize that they are accountable to the victim. This is particularly important since one reason victims give for not reporting a sexual assault is the fear of not being believed. It is important to the safety of the entire community that victims regard reporting to Law Enforcement and participating in the criminal justice system a safe and viable option. It is also crucial that every responder in every discipline is informed about the effect of trauma on an individual. Trauma can affect an individual's memory and ability to give detailed information. For all responders, this means being educated about the effect of trauma on an individual and treating each victim with consideration, professionalism, and compassion.

Responders must also be offender-focused in response to sexual assault. An offender-focused response acknowledges that offenders purposefully, knowingly, and intentionally target victims whom they believe they can successfully assault. Responders must recognize that offenders often choose victims based on the victim's accessibility, vulnerability, and a perception by the perpetrator that the victim's report of the attack will lack credibility. This is seen by the offender as an assurance of their ability to escape accountability for their offense(s). Offenders hope that the community responders will participate in victim-blaming, not educate themselves about offenders, and not have a solid understanding of the effects of trauma. All of these can combine to allow the offender to continue to re-offend.

If the Chattahoochee Judicial Circuit's collaborative response to the crime of sexual assault can balance the needs of the victim with the expectations of the criminal justice system, while maintaining focus on

holding offenders accountable, the goals of a victim-centered response will be met.

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 preference. Any documentation should be undertaken with a sensitivity to the potential for long-term, negative consequences to a victim.

Ensuring that sexual assault victims will be treated with sensitivity and compassion requires that victim services, law enforcement, medical, and prosecutorial personnel be made aware of the special needs of these victims. Since there is no "typical response" to the trauma of sexual assault, it is important to understand the many and varied ways victims may react to this particular crime and the issues surrounding sexual assault that may influence their reactions.

Victims of sexual assault, like victims of other violent crimes, not only must cope with the physical trauma perpetuated against them, but they must also 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 can be devastating. The humiliation and degradation victims may feel often are compounded by feelings of guilt, because 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 choose to report.



sexual assault

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 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 victims. This includes learning to accept and support sexual assault victims of every age, race, gender, or 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 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 in becoming a survivor. Giving the victim control over decisions is an important part of the transition from victim to survivor.

Media

The current 24/7 media cycle, and accessibility to it, is a reality. Coverage in local, regional, and national media is important. News coverage across many different formats, including social media platforms, informs public understanding and keeps communities and leaders updated on important issues, risks, and prevention. It is essential for sexual assault protocol committees to acknowledge and share a clear understanding about the role of the media and how to cultivate an effective working relationship that has clearly defined and mutually respected parameters and boundaries in both awareness and case investigations involving sexual assault.

Media Advocacy, Education, And Community Awareness

Media Advocacy plays a significant role for victim service providers, especially in the education of media on the facts of sexual violence and abuse, and how to effectively raise public awareness while protecting the confidentiality and privacy considerations of survivors.

In 2020, investigative news journalism spotlighted numerous high-profile sexual assault investigations that notably transformed and advanced public awareness and understanding of sexual assault victimization.

Developing A Plan: Considerations for Victim Service Providers

Established and effective working relations with the media can tangibly increase an organization's credibility and recognition while promoting public outreach. When sexual assault victim services are successful in establishing a strong, mutually respected working relationship with the media, they are likely to further engage the media in prevention as well as to increase awareness about access to services and resources. This approach can also provide transparency in a community's sexual assault protocol and their criminal justice response to victims.

The Victim Service Providers News Media Guide published a series of guidelines specific to victim service providers creating a media advocacy plan to develop, implement, evaluate, and advance effective working relationships with media providers. Nuances and distinctive considerations for different types of victimization are clearly delineated.²

The Victim Service Providers News Media Guide states that such providers have a key role in educating media professionals about how their coverage of crime, victimization, and individual cases affect victims and survivors, as well as the organizations and agencies that serve them. They can publicly advocate for responsible, sensible media coverage of issues related to victimization and serve as sources for timely and accurate data about crime.

It is important to note that journalists are objective observers and reporters of current issues in society and not "advocates" for crime victims. Over the years, however, news professionals have been a driving force in publicizing vital information and trends about public safety.

² Anne Seymour and Bonnie Bucqueroux, A News Media Guide for Victim Service Providers, (Washington D.C., Justice Solutions NPO, 2009.)

The media may:

- Strongly influence public opinion about issues important to society
- Provide a real-time platform to publicize important information about crime, safety, and victimization
- Play a key role in identifying critical issues related to individual, community, and overall public safety
- Offer opportunities for crime victims and advocates to be both proactive and reactive sources on coverage of crime and victimization
- Help victims and survivors who choose to tell their stories to relate the events effectively, which can promote their recovery

The Media Response to Sexual Assault Investigations

There are many circumstances for which timely and sensitive media coverage of a victim's case can be helpful – actually supportive to law enforcement efforts to identify and apprehend an assailant and provide public safety. Today's use of social media supplements tradition print, and television media and is instantaneous and powerful. It must be noted however, that at times the media's interest and timing does not necessarily coincide with the needs of law enforcement or the victim's quest for privacy. The media's most fervent push for information may be immediately following an assault, or during the trial of the accused which can also represent the time when a victim or family member feels especially emotional, vulnerable, confused, or numb.

Today most local, regional, or national media networks make a valiant effort to not identify a victim of sexual assault by name or photo, and most extend that constraint to other gender-based crimes such as stalking, domestic violence, etc. However, a victim's identity may still be revealed when a photograph of their home, neighborhood, or school is publicly displayed. It is not uncommon that a victim may feel their privacy has been violated, not understanding that immense information is available in the public domain. Providing a victim/ family with information about how the media may report information may help to alleviate anxiety and avoid surprise by media coverage.

It is important for Advocates to support, guide, and caution a victim/family from providing interviews with the media, especially in the immediate aftermath of a sexual assault or while the investigation is open and active. Statements made can be edited, misinterpreted, or taken out of context and have unsuspecting consequences that could potentially affect the investigation or influence future prosecution efforts. A desire to speak out is understandable and important, but adequate preparation is essential for a survivor determining whether to speak with the media.

Sexual Assault Center Advocates may consider sharing resources that will support victims and families in consideration of media engagement, such as the Counter Quo Survivor Media Guide at <https://www.victimrights.org/sites/default/files/CQ%20Survivor%20Media%20Guide.pdf> and additional media resources found at the Victim Rights Law Center at <http://www.victimrights.org/>

Victims Using Social Media

Social media plays a very prominent role in how today's headlines are shared and commented on publicly. However, a sexual assault victim posting a statement or narrative on social media may

potentially hinder the criminal justice response in a case. Although the use of social media by an individual may feel as though one has greater control than in a formal and traditional media interview – once personal information is posted on the internet it is forever in the public domain and may be used, accessed, edited, and shared by anyone and for disingenuous purposes as well.

A victim of sexual assault should refrain from making public comments or statements on personal social media platforms about any case that is currently part of an investigation or court proceeding. Comments and statements made about any individuals or events that may be subject of a criminal justice trial can be extremely problematic to seeking justice. Users of social media are not professional journalists and do not subscribe to professional standards or formal training guidelines. Opinion is the prevailing purpose of social media and is not held to fact-checking or accountability measures. As such, rhetoric can be abusive and compound trauma and anxiety for victims and families and result in unwanted threats or bullying commentary.

Although there can be an unintended negative experience from a survivor's use of the internet and social media, it can at times prove a positive outlet for some individuals. Recent years reflect an increase in crime victim's use of social media to increase public awareness and spotlight injustices. Some family members rely on social media to keep the public awareness and focus on missing persons, and unsolved crimes. The common tools of social media include platforms such as Twitter, Facebook, Instagram, blogs, designated websites, and more recently use of podcasts cover a greater array of stories and investigations.

It is important to understand the role of the media working with local community-based victim service organizations, law enforcement, and victims and families. Likewise, it is beneficial to invest time and communication to help educate the media on sexual assault victimization. It is helpful to develop and cultivate working relationships in advance of special events, awareness campaigns, or in response to emergent case situations. The media can be an important collaborative partner to the community and public health and safety.

Additional resources on developing a Media Advocacy Plan can be found at the following:

A News Media Guide for Victim Service Providers

<http://www.victimprovidersmediaguide.com/>

Media Toolkit for Sexual Assault Prevention

https://www.nsvrc.org/sites/default/files/publications/2018-10/Toolkit6_FINAL508.pdf

MEDIA Resources (Various): EVAWI Media Documents, Toolkits, and Information available at:

<https://www.evawintl.org/Library/Documents.aspx?StaticCategory=true&CategoryID=177>

Your Voice, Your Choice: A Survivor Media Guide – CounterQuo

<https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=614>

Reporting Requirements

There are specific laws related to the reporting of sexual assault and/or sexual abuse designed to protect persons with disabilities, elderly persons, and children under 18 who may be victims of physical abuse, sexual abuse, and/or neglect. For more detail regarding reporting requirements and procedures of child victim crimes in our judicial circuit, please see the Chattahoochee Judicial Circuit Child Abuse Protocol. For complete information on mandated reporting, see [Appendix C](#).

A. Reporting of Sexual Assault and/or Sexual Abuse

O.C.G.A. § 31-7-9 mandates that physicians and certain other personnel employed by a medical facility report “non-accidental injuries” to the administrator of the facility. The administrator or his/her designee 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 the age of 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. The report must be made to Law Enforcement (by calling 911), or the Department of Family and Children’s Services (by calling 1.855.422.4453 (1.855.GACHILD), or by submitting a completed form via fax at 229.317.9663, or by email at CPSIntake@dhs.ga.gov, or the web at <http://dfcs.georgia.gov/child-abuse-neglect>. 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. A report can be made 24 hours a day and 7 days a week.



Protection of Elderly Persons or Adults with Disabilities

Adult Protective Services (APS) is the state agency that investigates all reports of abuse, neglect, and/or exploitation of older persons (65+) or an adult (18+) with a disability who do not reside in long-term care facilities pursuant to the Disabled Adults and Elder Person Protection Act, **O.C.G.A. § 30-5-1**, et seq. Abuse may include physical, mental, emotional, verbal, or sexual abuse, or neglect, self-neglect, or financial exploitation.



For persons living in the community, Georgia law requires mandatory reporting of suspected abuse, neglect and/or exploitation by certain professionals who are mandated reporters. Failure for a mandated reporter to report abuse of a disabled adult or elder person is punishable by a criminal misdemeanor.

However, all persons are encouraged to report suspected abuse to protective services. Persons who report in good faith are immune from civil or criminal liability. Reporting is kept confidential within the parameters of state law (**O.C.G.A. § 30-5-4**). APS is not a first responder. Call 911 if someone is in immediate danger.

O.C.G.A. § 31-8-82 requires the reporting by administrators, physicians, nurses or other employees of a hospital or facility and 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

To report abuse, neglect, or exploitation of an older adult or adult with a disability residing in a long-term care facility (i.e. community living arrangements, personal care homes, intermediate care or skilled nursing homes), contact the Department of Community Health, [Healthcare Facility Regulation](#), 1-800-878-6442 or <http://dch.georgia.gov>.

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 Services (DHS) or the appropriate law enforcement agency. The Office of Regulatory Services of DHS will then initiate an immediate investigation.

Reports are accepted by APS by phone Monday through Friday 8:00 a.m. to 5:00 p.m. at 1.866.552.4464 Press 3 (1.866.55AGING) or go online for more information to aging.georgia.gov/report-elder-abuse.

Need for Consent of Victim for Medical Procedures

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

Testing for HIV: defendants and those convicted of an AIDS transmitting crime

A concern often expressed by a victim of 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. 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 the District Attorney.



DNA In Sexual Assault Cases

Deoxyribonucleic acid (DNA) is essentially a genetic blueprint of an individual. It is the patterned chemical structure of genetic information that is unique to only one person (with the exception of identical twins). DNA remains relatively the same throughout an individual's lifetime because it does not mutate or change. DNA analysis associated with a criminal investigation can either eliminate an individual from, or link an individual to, a crime/scene. Serial offenders are discovered when DNA analyzed from different crime scenes link to the same DNA profile.

Frequently Asked Questions

Where is DNA typically found in sexual assault cases?

DNA can be found on the victim's body, as well as at the crime scene. A victim should have a forensic medical examination (FME) conducted by a medical professional, preferably a sexual assault nurse examiner (SANE), as soon as possible after the assault. Vaginal and/or seminal fluids, blood, hairs, saliva, fibers, or other evidence transferred from the suspect to the victim will be carefully collected, packaged, and preserved during the exam so that it can later be tested in a laboratory setting. (For more detailed information on the exam and collection of evidence from a victim, see the section in this guide on "Roles and Responsibilities of the Health Care Provider.")

What types of items can be tested for DNA?

Items at the crime scene that may contain DNA (including touch DNA, such as skin cells) include clothing, bed sheets, comforters/blankets, feminine hygiene products, condoms/wrappers, drink containers, cell phones, toothbrushes, weapons, and cigarettes/vaping devices.

What should law enforcement be aware of when collecting possible evidence?

Careful attention should be paid to avoid any contamination of potential evidence. Contamination is the introduction of foreign DNA to a sample. A sample could refer to a reference standard being analyzed in a laboratory, or the victim, or it could also mean an object collected at a crime scene potentially containing DNA.

Contamination can occur from any person who is exposed to the sample, including the individual who retrieves or collects the item(s). Cross-contamination can happen when DNA is unintentionally transferred from one sample and inadvertently mixed-in with another sample.

To minimize the risk of contamination, those collecting evidence should:

- Wear gloves
- Not touch their face or eyes while wearing gloves
- Change gloves often and correctly, by rolling them down into themselves from the wrist
- Use a brand-new latent fingerprint kit (with new brush and powder) at each scene
- Wear a protective mask and do not speak while examining or collecting items
- Package each item individually

Additionally, there should always be a focus on establishing and maintaining a tightly controlled and well documented chain of custody. Quality control pertaining to evidence, and all components in the chain of custody, will be evaluated, scrutinized, and challenged as an investigation moves through the criminal

justice system.

Additional Resources:

The area of DNA testing comprises a substantial amount of information and is constantly progressing. Therefore, it is recommended that law enforcement check with GBI Crime Lab personnel during a sexual assault investigation to determine all items that can be tested. In some cases, specific testing that is needed may have to be sent to another law enforcement agency for analysis. For more detailed information on best practices regarding DNA and evidence collection and testing in a sexual assault investigation, please see our separate addendum at SVRGA.org

Financial Resources

There are numerous 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. Medical Forensic Examination Payment

O.C.G.A. § 17-5-72 states the victim shall have the right to have a forensic medical examination regardless of whether the victim participates in the criminal justice system or cooperates with law enforcement in pursuing prosecution of the underlying crime. A victim shall not be required to pay, directly or indirectly, for the cost of a forensic medical examination. The cost of a forensic medical examination shall be paid for by the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of this title.



B. Victims' Compensation Fund

The victim cannot be billed directly or indirectly for a forensic medical examination, which means that collateral sources (e.g., insurance) cannot be billed. All other services (excluding the forensic medical examination) may be billed to the victim or their respective insurance company(s). The victim, if eligible, may also apply for benefits for other related expenses through the Georgia Crime Victims Compensation Program.

Please see the Criminal Justice Coordinating Council's (CJCC) Victims' Compensation portal for a complete list of information.

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 72 hours or submitted a claim after the designated time period has expired, can appeal a denied application.

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, and funeral expenses.

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. However, the Fund may not be widely known in areas not served by a victim advocate agency, so many sexual assault victims are never told how to access this resource. The difficulties faced by a traumatized, transient, or illiterate victim often preclude the victim from using this much needed resource. Hospitals, law enforcement, victim advocates, and prosecuting attorney's offices should inform victims of sexual assault that they may be eligible to receive up to \$25,000 for costs associated with the crime. The Center at 909 and District Attorney's Victim Witness Assistance program are available to assist victims in the preparation and submission of these claims.

Georgia's Crime Victims' Bill of Rights



The Crime Victims' Bill of Rights (**O.C.G.A. § 17-17-1, et. seq.**) was passed by the Georgia General Assembly during the 1995 legislative session and states that it is the policy of this state that victims of crimes should be accorded certain basic rights just as the accused are accorded certain basic rights. These rights include:

- The right to reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings.
 - The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused.
 - The right not to be excluded from any scheduled court proceedings, except as provided by law.
 - The right to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused.
- The right to file a written objection in any parole proceedings involving the accused.
- The right to confer with the prosecuting attorney in any criminal prosecution related to the victim.

Hospitals, law enforcement, victim advocates, and prosecuting attorney's offices should inform victims of sexual assault that they may be eligible to receive up to \$25,000 for costs associated with the crime.

- The right to restitution as provided by law.
- The right to proceedings free from unreasonable delay; and
- The right to be treated fairly and with dignity by all criminal justice agencies involved in the case.

Victims should also be made aware of their rights to various notifications involved in the criminal justice process, their right to refuse an interview with the accused's attorney, the right to separate waiting areas during criminal proceedings, and their confidentiality rights. Victims must also understand their responsibility to provide current address and phone information to the notifying parties. For specifics about the rights listed in the Crime Victims' Bill of Rights, please see [Appendix A](#).

Roles and Responsibilities of Responders

The **Chattahoochee Judicial Circuit Sexual Assault Protocol** mainly addresses the roles and responsibilities of responders with regards to victims aged 15 years and older.

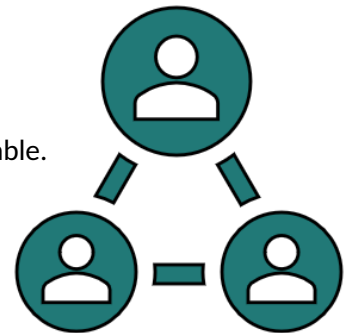
The protocol mainly addresses the following responders:

- Sexual Assault Nurse Examiners (SANE) and other health providers
- Law Enforcement Representatives
- Victim Advocates

Each of these professionals has a role in responding to and caring for patients/victims, investigating the crime, and/or holding offenders accountable.

Each responder should be able to explain to victims the roles of other team members.

While this protocol addresses the role of the core SART members, it is important to recognize that responders at every level play a significant role in the recovery process of survivors of sexual assault. SART members should recognize the role they play in helping the survivor and the community at large to recover a sense of peace and security.



The Role of the Law Enforcement Officer

The first contact after a sexual assault is critical to the victim's recovery.



Law enforcement officers are often the point of first contact for the victim. Responding officers can dramatically impact the victim's ability to accept and respond positively to continued investigative efforts.

Officers should be aware that their actions as the first responder have a vital impact on the future psychological well-being of the victim. Every effort made to relieve victims' feelings of shame and/or self-blame, to regain a sense of control of their lives, and to ensure that all victims are treated professionally and with dignity, will enable victims to provide the clearest and most thorough information about the crime. It is important that law enforcement understand the concept of a victim-centered, trauma informed, and offender-focused approach to the investigation of a sexual assault.

The role of an officer responding to sexual assault focuses on the following:

- protecting the safety and well-being of the victim.
- ensuring the victim receives proper medical attention.
- initiating a collaborative response.
- collecting and preserving evidence, including initial witness statements.
- identifying whether a crime has occurred; and
- conducting an investigation.

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 suspect
- Unusual physical characteristics of suspect
- Clothing of suspect
- Method of flight (car, truck, on foot, etc.), and
- Direction of flight

If the crime scene is known, then the forensic or identification unit of the law enforcement agency should be notified as soon as possible that it will be needed at the crime scene and at the medical facility selected for the forensic examination. If the responding officer proceeds to the medical facility or to The Center where the victim is taken, the officer should remain at the facility until primary investigators have arrived, and then thoroughly brief them on any necessary information. These briefings should take place in a private setting where confidential information cannot be overheard by other patients or medical personnel.

A. Initiating the Collaborative Response

When a victim presents to a responding officer and indicates that a sexual assault has occurred, the officer should initiate the multidisciplinary response/SART by promptly contacting 911 to request that an on-call advocate from The Center at 909 be dispatched. *A victim advocate should be contacted in every case of sexual assault whether or not a victim chooses to have a sexual assault forensic examination.*

The victim should always be referred to a SANE, local hospital, or other medical professional for assessment and care.

The responding officer should promptly contact the local hospital Emergency Department and 911 to dispatch an advocate. If the victim declines to report to the Emergency Department for emergency medical clearance, law enforcement may bring the victim directly to The Center at 909. The advocate must be contacted to provide access to The Center.

Even if a victim has bathed, douched, or previously had consensual sex, the officer should nevertheless proceed to transport the victim to the appropriate medical facility or The Center. The evidence collection time period is 120 hours after the assault has occurred (though evidence has

B. Role of Law Enforcement during the Forensic Exam

The law enforcement officer may be present and participate with the SANE or medical professional during the taking of the *assault and forensic history*. However, the law enforcement officer should not be present during the taking of the *medical history or during the medical forensic evidence examination*.

“Pressuring a reluctant victim to sign a form stating that they are not interested in prosecution and will not hold the agency accountable for stopping the investigation is poor practice and is potentially damaging to an agency.” -IACP

C. Conducting an Initial Victim Statement Interview

The initial victim statement is typically taken upon first contact with the victim and law enforcement. The initial victim statement is the opportunity for law enforcement to obtain basic information

and establish the location and elements of the crime. Where a victim advocate is available, the advocate may sit in on the initial victim statement if the victim chooses. The initial victim statement is not a comprehensive interview – the initial statement is used to assess safety and health needs, ascertain jurisdiction, identify, and preserve sources of evidence and determine next steps.

Responding officers shall refrain from asking the victim if they would like to press charges at the preliminary interview. The victim shall not be asked to sign documentation waiving the right to do so at a later date; if the victim chooses not to press charges immediately following the incident, the option should remain open in the event that they feel better able to participate at a later time. Because victims may be reluctant to contact law enforcement at a later time due to shame or embarrassment, officers should follow-up with victims to discuss options, answer additional questions, and determine whether or not the victim has decided to press charges.

Waiver of Prosecution/Agreement to Prosecute forms should not be used by law enforcement agencies in the state of Georgia for any reason with respect to sexual assault investigations. Waiver of prosecution forms could result in a loss of benefits under the Georgia’s Crime Victims’ Compensation Program.³

D. Report Writing for Sexual Assault Cases⁴

Officers should be aware that reports are used for more than mere documentation of incidents. Reports are used by defense attorneys to craft the suspect’s defenses, by prosecutors to determine charging decisions, by advocates to develop safety plans with victims, by judges to set or deny bail, by



community corrections to set probation parameters, as well as others. Reports may also be released

³ “Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault.” *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

⁴ “International Association of Chiefs of Police Sexual Assault Response Policy And Training Content Guidelines.” *Theiacp.org*, IACP, 23 Mar. 2017, [https://www.theiacp.org/sites/default/files/all/i-j/IACP Sexual Assault Response Policy and Training Content Guidelines.2017.3.23.pdf](https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Sexual%20Assault%20Response%20Policy%20and%20Training%20Content%20Guidelines.2017.3.23.pdf).

to victims and the media. As such, the following should be considered when writing reports in sexual assault cases:

- Document every response to or investigation of a reported sexual assault by completing a narrative report and a properly coded offense report, whether or not an arrest is made. It is recommended that officers and investigators also complete a supplemental report to augment the narrative report.
- As accurately as possible, use the victim, witness, and/or suspect's own words in written reports by using quotations wherever possible. Do not sanitize or clean-up the language used by the victim.
- Capture details necessary to establish any premeditation/grooming behavior by the perpetrator, coercion, threats and/or force, and traumatic reaction during and after the incident (e.g., victim demeanor, emotional response, changes in routines or habits), and/or any attempts to intimidate or discourage the victim from reporting the assault.
- Document the details of the crime by asking the victim what they thought, felt, and feared at the time of the assault; what they experienced before, during, and after the sexual assault; how the experience changed throughout the event (consensual to non-consensual); and what they saw, smelled, tasted, heard, and touched during the incident.
- Document the victim's condition as observed by the officer. Avoid the use of vague words; instead use accurate descriptors.
- Fully document fear by recording all fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, and after the assault. Victims may freeze (not be able to resist physically); this may be an indicator of fear and trauma.
- Silence should not be construed as consent. Resistance can be communicated through more than words. Detail and describe what "no" looked like by documenting the victim's subtle and overt actions.
- Detail and describe what fear felt like for the victim in his, her, or their own words.
- Create a timeline to show the effects of the traumatic event on post-assault behavior and actions of the victim as compared to previous behavior (i.e., in a non-stranger case, the victim no longer goes to the gym that the suspect belongs to, will not be in the same room as the suspect, or the victim drops out of school, etc.)
- Accurately document all information provided by the victim even if it does not cast him or her in a positive light.
- Every effort should be made to avoid using consensual language, words that imply mutual participation, and terms of affection (such as participated, engaged in, caressed) unless they are direct quotes (in which case, place them in quotation marks); instead, describe the specific actions, behaviors, and conduct of the suspect as they align with the specific elements of the crimes.
- Exclude officer opinion and judgment from the written report.
- If a consensual encounter turned non-consensual, clearly document the details of how and when the suspect's behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.
- Include any observations or witness statements that corroborate the victim's or suspect's account of the events that occurred.

- If volunteer victim advocate is present, avoid using their name in the report. Instead, list “victim advocate” with the hotline number for contact purposes.

E. Efforts to Encourage Reporting and Enhance Public Trust and Transparency⁵

In the aftermath of a sexual assault, a victim may fail to self-identify as a rape or crime victim. Further, they may feel that they do not have the emotional or physical capacity to commit to a full investigation and a court trial. The ability to capture blind reports, anonymous reports, third party reports, and on-line report options will allow victims to take the investigative process one step at a time. This will allow time for the victim to process the aftermath of the assault, establish trust with an investigator, and become comfortable with the investigative process.

An advocate should be present during the interview if the victim chooses. It is NOT part of the role for victim advocates to ask any substantive questions or to provide any factual information about the sexual assault.

Non-reporting: departments should establish a system for collecting, documenting, and maintaining evidence while allowing the victim time to recover, consider options, and decide how they would like to proceed. (May also be titled Anonymous Reports, Jane Doe Reports, Investigative vs. Non-Investigative, Reported vs. Non-Reported, or Investigation-delayed reports).

F. Conducting a Comprehensive Interview/Assault History

If available, officers who have specific training in sexual assault interviews and investigations should perform the comprehensive interview with the victim.

The comprehensive interview should take place after the victim has had time to rest and recover from the medical forensic examination. In most cases, it is appropriate to postpone the interview at least one or two days. An advocate should be present during the interview if the victim chooses. It is NOT part of the role for victim advocates to ask any substantive questions or to provide any factual information about the sexual assault. The advocate and the law enforcement officer should work together to minimize re-victimization during the interview process.

Victim interviews take time to complete. Law Enforcement should allow ample time to conduct a thorough victim interview. The comfort and needs of the victim should be taken into consideration throughout the course of the interview process. Law Enforcement Officers should consider that trauma, cultural differences, cognitive ability, fear, self-blame, and other factors can influence the victim’s ability to provide concise details about the assault. Law Enforcement and the Advocate should work together to ensure the victim’s comfort in order to facilitate the disclosure of as many relevant details as possible. Toward that goal, whenever possible, The Center at 909 should be utilized for adult interviews and a copy of the report be given to The Center for compensation

⁵ “International Association of Chiefs of Police Sexual Assault Response Policy And Training Content Guidelines.” *Theiacp.org*, IACP, 23 Mar. 2017, [https://www.theiacp.org/sites/default/files/all/i-j/IACP Sexual Assault Response Policy and Training Content Guidelines.2017.3.23.pdf](https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Sexual%20Assault%20Response%20Policy%20and%20Training%20Content%20Guidelines.2017.3.23.pdf).

purposes.

The purpose of the comprehensive interview is to develop a fuller picture of the circumstances of the sexual assault. The interview presents an opportunity for the victim to provide additional information they may not have remembered, may have been afraid or embarrassed to share, or may have suppressed immediately following the assault.

It presents an opportunity for law enforcement to:

- verify, clarify and expand on the initial interview.
- confirm and establish the elements of the crime.
- develop supporting details related to the circumstances surrounding the assault.

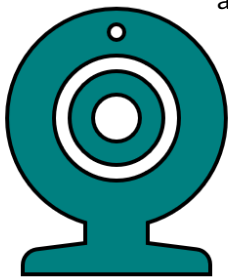
Victims may fear not being believed. A victim-centered approach to interviewing acknowledges these factors and attempts to make the victim comfortable by:

- Establishing a rapport before beginning the interview.
- Explaining the investigative process and why certain questions are necessary.
- Utilize the Advocate present as a means of comfort for the victim.
- Avoiding victim-blaming questions – such as why did you? Or why didn't you?
- Encouraging the victim to provide a comprehensive statement of the event from beginning to end – with only minimal interruption but with the understanding that follow up questions will be necessary for clarification.
- Acknowledging the impact of trauma on the victim during the interview.

A victim's right to change their mind regarding moving forward with the investigation and prosecution should only be constrained by the statute of limitations. Even then, the victim may serve as a witness in another case involving the same suspect, so an interview and investigation should always be conducted.⁶

G. The Use of Body Cameras During Victim Interviews⁷

As the ability to gather digital information from body-worn cameras increases, the responsibility to thoughtfully and respectfully address the privacy rights of individuals, safety of victims and officers, and autonomy of victims increases as well. The use of body-worn cameras presents



benefits and opportunities as well as challenges that must be carefully measured and scrutinized. The use of body-worn cameras should be implemented with consideration to the complexities of responding to victims of domestic violence, sexual assault, dating violence, and stalking. Development of policies and practices must be done in collaboration with many community and criminal justice partners.

As we implement programs, it is critical to be cognizant of possible negative unintended consequences that can include the following:

⁶ "Sexual Assault Incident Reports: Investigative Strategies." *Theiacp.org*, IACP, <https://www.theiacp.org/sites/default/files/all/s/SexualAssaultGuidelines.pdf>.

⁷ "Deliberations from The IACP National Forum on Body-Worn Cameras And Violence Against Women." *TheIACP.org*, IACP, Jan. 2017, <https://www.theiacp.org/sites/default/files/all/d-e/DeliberationsfromtheIACPNationalForumonBWCSandVAW.pdf>.

- A lack of protection of the privacy, confidentiality, and rights of the victim
- A decrease in victims reporting crimes
- A decrease in victim safety
- A misunderstanding of the victim's experience of the violence due to a lack of knowledge of how victims and perpetrators may present to law enforcement and are captured in the recording
- Capturing privileged or confidential information that may include conversations with medical personnel, victim advocates, or legal advisors
- The use of recordings from a call for service in other civil cases and processes such as child welfare or custodial rights and visitation
- Nonintentional release of private data information due to insecure data storage systems or department policy
- Hesitation within marginalized communities and vulnerable populations to report for fear of discriminatory repercussions
- An increase of the time needed to process and/or review evidence by both law enforcement and prosecutors

Sexual assault kits associated with sexual assaults that have not been reported to law enforcement should not be submitted to

At no time should any recording devices be utilized within The Center at 909's medical forensic examination area.

2021 Updates: Police Body-Worn Camera Considerations

The use of body-worn cameras by law enforcement agencies has increased significantly in recent years. These devices allow often rapidly evolving situations with the public to be recorded and stored for a certain amount of time. They are sometimes used as evidence during criminal proceedings.

There is not currently a consensus regarding policy procedure or program directives for the use of body-worn cameras, as multidisciplinary research continues in how to develop a universally effective policy with respective protection of privacy. However, multidisciplinary forums studying the vast and diverse considerations have agreed the use of body-worn cameras should only be implemented "...with due consideration specific to the complexities of responding to victims of sexual assault/abuse, dating violence, stalking, and domestic violence." National forums representative of allied and multidisciplinary professionals further state, "The development of local and state policies and practices are best achieved in collaboration with broad community and criminal justice partners."⁸

⁸ International Association of Chiefs of Police. (2017). Deliberations from the IACP National Forum on Body Worn Cameras and Violence Against Women.
<https://www.theiacp.org/sites/default/files/all/de/DeliberationsfromtheIACPNationalForumonBWCSandVAW.pdf>

Video recordings can be an effective way to collect information, reduce documentation, observe interactions, foster community trust, and decrease the need for multiple interviews. But as the use of body-worn cameras becomes more common, there is also understandable concern about the privacy of individuals - particularly victims and witnesses - that are captured during police interactions.

Law Enforcement Considerations

Law enforcement agencies are strongly encouraged to develop internal policies and procedures for the use of body-worn cameras when responding to cases that involve sexual assault that are sensitive to the privacy needs of the victim and consistent with a trauma informed approach.

A victim who has experienced sexual assault may be unaware that they are being recorded when recounting their experience to law enforcement officials. Officers should inform victims when they are being recorded as well as explain the purpose of the recording and by whom the video could be seen. Once informed, the victim may not wish to be recorded. Police agencies should consider that continued recording against a victim's wishes may affect their proclivity to speak with police and may in some cases add to the trauma they have experienced. It is best to allow the victim to make an informed choice whether to continue with the interview if the filming cannot be paused.

Agencies should prioritize victim safety. It is possible that information captured in recordings may be obtained by an offender or their counsel. In these instances, discussion or guidance meant to protect a victim could potentially endanger them instead. Conversations that involve any discussion of where a victim can go, who they will stay with, who they will speak with, or where/how to obtain services should not be recorded.

The use of body-worn cameras by law enforcement is discouraged in patient-care areas of healthcare facilities or forensic medical providers such as sexual assault centers or children's advocacy centers, unless responding to a 911 emergency at the facility. Use in medical settings increases the potential for violation of all patients' Health Insurance Portability and Accountability Act (HIPAA) privacy rights.

When creating body-worn camera policies and procedures, consider:

- How to protect victim privacy
- Who will access recordings internally and externally?

Two state laws regarding the use of law enforcement body cameras are found below: SB 94 (2015) established standards for the release of body camera data for public record requests. The law excludes body camera recordings from public records when they are taken in a place where there is a reasonable expectation of privacy, and no criminal investigation is pending. The law creates exceptions for a subject of the video, a parent of a minor in the video and persons party to a criminal or civil action relevant to the video. The code also provides an exception to the states eavesdropping law, enabling law enforcement officers to make recordings as they perform their official duties.

HB 976 (2016) requires video to be retained for 180 days generally. It must be retained for 30 months if the recording is part of a criminal investigation, shows an accident, shows detainment,

depicts an arrest, or use of force, or is reasonably necessary for pending litigation. Governing bodies have no duty to redact the video. Imposes an additional \$10 fee for creating recordings.

The issue of body-worn cameras in response to violence against women is an important discussion topic for each Georgia Sexual Assault Protocol Committee, and their local SART responders. Individual police agency policy and standard operational procedures can and will influence distinctions amongst responding officers and their ability to control camera operations. It is important to understand those distinctions and to effectively communicate limitations of their use to the victim's for understanding and agreement. For Georgia Sexual Assault Response Team Guide 2021 49 more information on topics and issues regarding the use of body-worn cameras by law enforcement in response to violence against women, please refer to the Deliberations from the IACP National Forum on Body-Worn Cameras and Violence Against Women.⁹⁹

H. Investigation-Submitting Sexual Assault Kit to GBI Crime Lab¹¹

In 2016, the Georgia legislature passed **Senate Bill 304 (Compassionate Care for Victims of Sexual Assault Act) which amended Chapter 1 of Title 35 of the Official Code of Georgia Annotated**, regulating the submission of sexual assault kits to the Georgia Bureau of Investigation's Department of Forensic Sciences (GBI Crime Lab).

This law mandates that law enforcement take possession of Sexual Assault Kits (SAKs) within 96 hours of a medical forensic exam for a **reported** sexual assault. Additionally, the SAK must be submitted to the GBI Crime Lab within 30 days of collection, when the sexual assault has been reported to law enforcement.

Sexual assault kits associated with sexual assaults that have not been reported to law enforcement should not be submitted to the GBI Crime Lab. The DNA profiles created by analysis of these kits are not eligible for upload in the Combined DNA Index System (CODIS). Only DNA profiles that are associated with a reported crime are eligible for upload into CODIS, per National DNA Index System Operational Procedures.

Pursuant to O.C.G.A. § 17-5-71, SAKs associated with non-reported sexual assaults should be maintained in the possession of law enforcement for a minimum period of 12 months or until such time as the victim decides to report the crime to law enforcement. These kits are referred to as non-reported SAKs or non-investigative SAKs. When a non-reported or non-investigative SAK is converted to a reported or investigative SAK because the victim reported the sexual assault to law enforcement, the SAK should be submitted to the GBI Crime Lab, as any profile developed could be considered eligible for upload into CODIS.

I. Reluctant and/or Recanting Victims

⁹⁹ International Association of Chiefs of Police. (2017). Deliberations from the IACP National Forum on Body Worn Cameras and Violence Against Women.

<https://www.theiacp.org/sites/default/files/all/de/DeliberationsfromtheIACPNationalForumonBWCSandVAW.pdf>

⁹ International Association of Chiefs of Police. (2014). Body-Worn Cameras - Model Policy.

<https://www.theiacp.org/sites/default/files/all/b/BodyWornCamerasPolicy.pdf>

¹¹ Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault, Georgia Bureau of Investigation, Criminal Justice Coordinating Council, 10 Oct. 2018,

<https://www.theiacp.org/sites/default/files/all/docs/field/resources/sartguide101018.pdf>.



It is not uncommon for sexual assault victims to be reluctant about reporting to law enforcement and participating in the criminal justice system. Victims who are reluctant often feel they have no other choice but to recant in an effort to disengage from the criminal justice system. A victim-centered approach by law enforcement recognizes the tremendous cost to a victim who proceeds with the criminal justice system and understands that recantation of one or more aspects of a prior statement doesn't necessarily mean false reporting.

Various influences affect a victim's willingness to participate and/or recant. Among those influences are:

- A victim's feeling of embarrassment, fear, and shame
- A victim wanting to put the assault behind them
- Anxiety over having to face the perpetrator in court
- Pressure from offender, friends, family, or community
- Pressure from cultural and/or religious communities
- Concern or confusion about the likely outcome of a prosecution
- Concern that the victim will not be believed
- Concern over an arrest record/outstanding warrant
- Concern because of possible engaging in illegal activities

Remember, trauma effects everyone differently. Depending on the amount of time between the assault and when it is reported, and the amount of support the victim may have received, she or he may still be in crisis and experiencing symptoms of trauma. Officers should be aware of the signs of trauma, including fragmented memory, gaps in memory, or an exhibition of a range of behaviors that may change over time as the victim processes the event.

ViCAP

Utilizing The Violent Criminal Apprehension Program (ViCAP)

Established by the Department of Justice in 1985, the Violent Criminal Apprehension Program (ViCAP), serves as the national database for violent crimes. The system can be a valuable tool for investigating sexual assault and law enforcement personnel are strongly encouraged to take advantage of this free, beneficial resource.

What Is ViCAP?

ViCAP is a web-based database hosted through the Law Enforcement Enterprise Portal (LEEP) secure site. It allows law enforcement agencies to collect, collate, enter, and analyze their own violent crime information on a local level and facilitates the identification of similar cases on regional, state, and national basis at no cost.

How ViCAP Can Assist with Investigations:

Cases entered into ViCAP are reviewed by federal crime analysts. The submitting law enforcement agency will receive a ViCAP Crime Analyst Report (CAR) after their case has been reviewed. The report contains a case synopsis, summary of analytical findings, recommendation of additional investigative resources, description of resources utilized, and appendixes with additional details.

Law enforcement professionals can also utilize the database to search for cases that have similar characteristics to those in their own jurisdiction. This is possible because ViCAP captures and stores significant information from cases nationwide, including: administrative data, victimology, offender/ suspect description, incident dates/ locations, crime scene characteristics, modus operandi/ signature, trauma/ cause of death, sexual activity, weapons, vehicles, attachments, and physical/ forensic evidence.

ViCAP can also assist law enforcement by compiling subject timelines, coordinating seminars and case consultations (this provides a venue for investigators to share information), and providing on-site analytical assistance.

Types of Cases May Be Entered into ViCAP:

- **Homicides** (and attempts) that are apparently random, motiveless, or sexually- oriented, or are known or suspected to be part of a series.
- **Sexual Assaults** committed by a stranger, or those known or suspected to be part of a series.
- **Missing Persons** where the circumstances indicate a strong possibility of foul play, and the victim is still missing
- **Unidentified Human Remains** where the manner of death is known or suspected to be homicide.

How to Log on and Begin Using ViCAP:

To access the ViCAP database, a valid Law Enforcement Enterprise Portal (LEEP) account and permission granted by an authorized LEA Manager (LEAM) are required. First time users should contact the LEAM for their agency to activate their user role within ViCAP. When completed, the user will receive an email with a code to enter in the Token Code Page. (This is a one-time occurrence.)

- Log on to LEEP: www.cjis.gov.
- Scroll down the list of programs and locate ViCAP at the bottom.
- Accept the Rules of Behavior

For Additional Assistance or Questions:

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Georgia FBI ViCAP Contact:

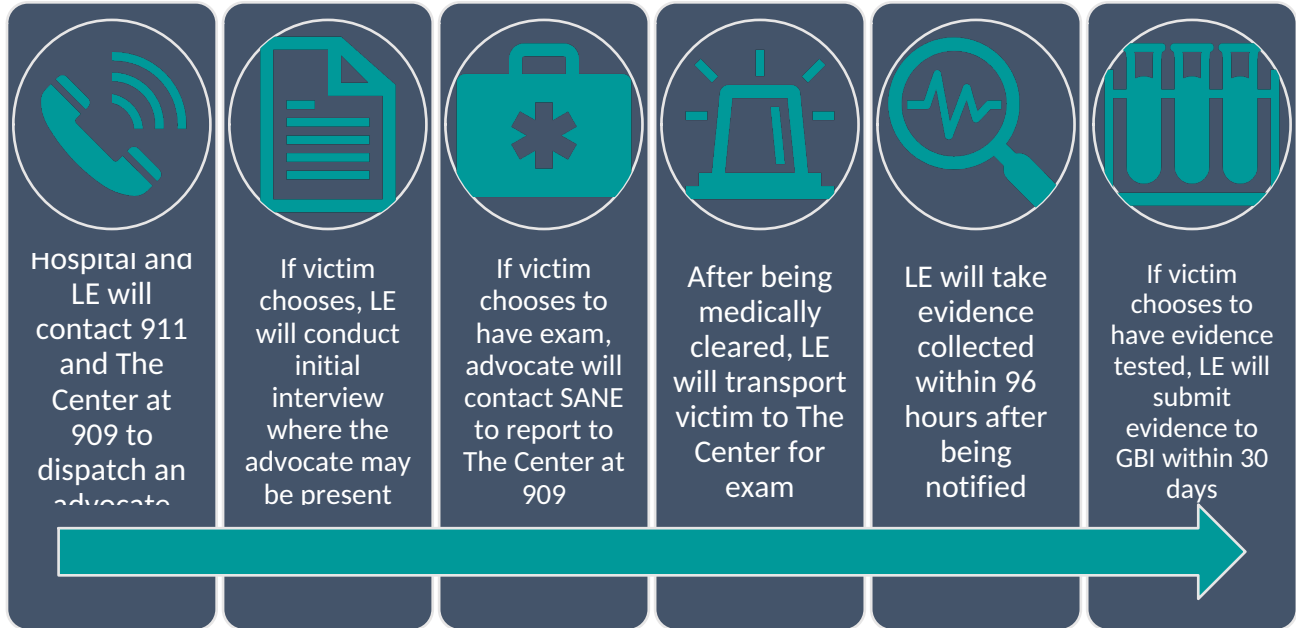
Alexandra McConnell

703-632-4189

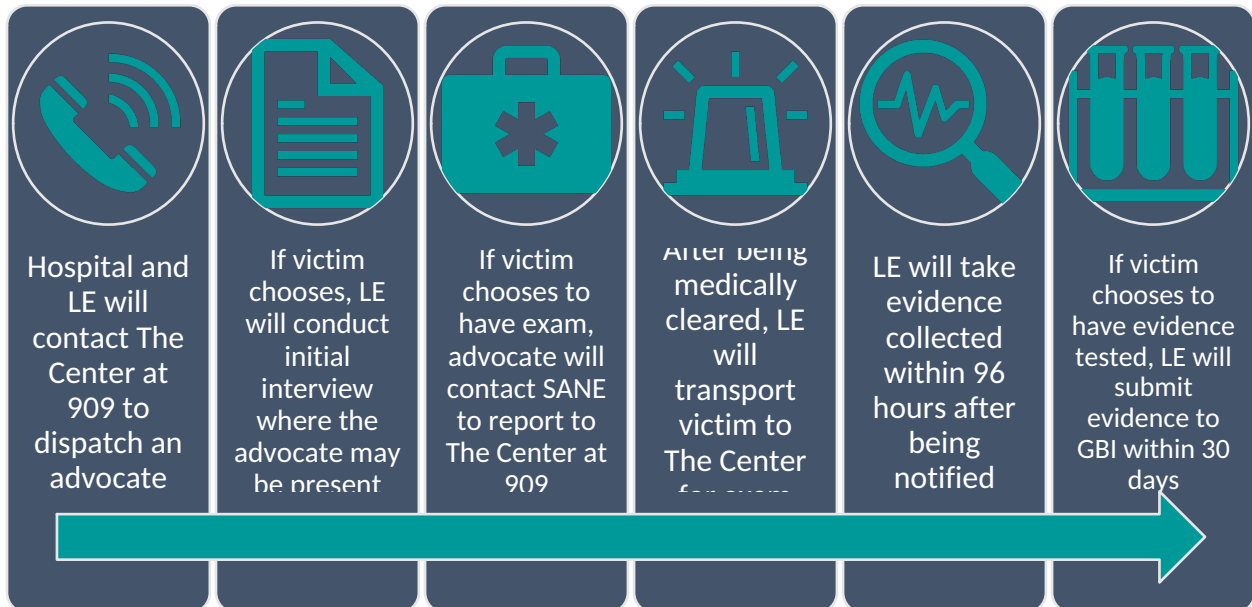
almcconnell@fbi.gov

Response Process

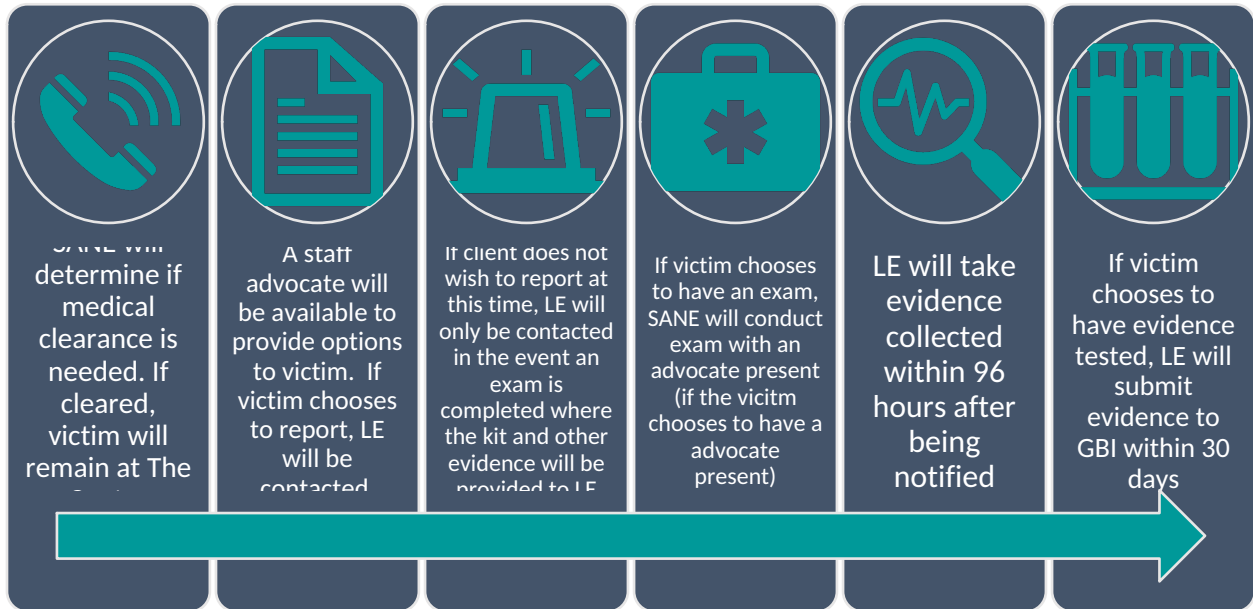
Victim reports at hospital



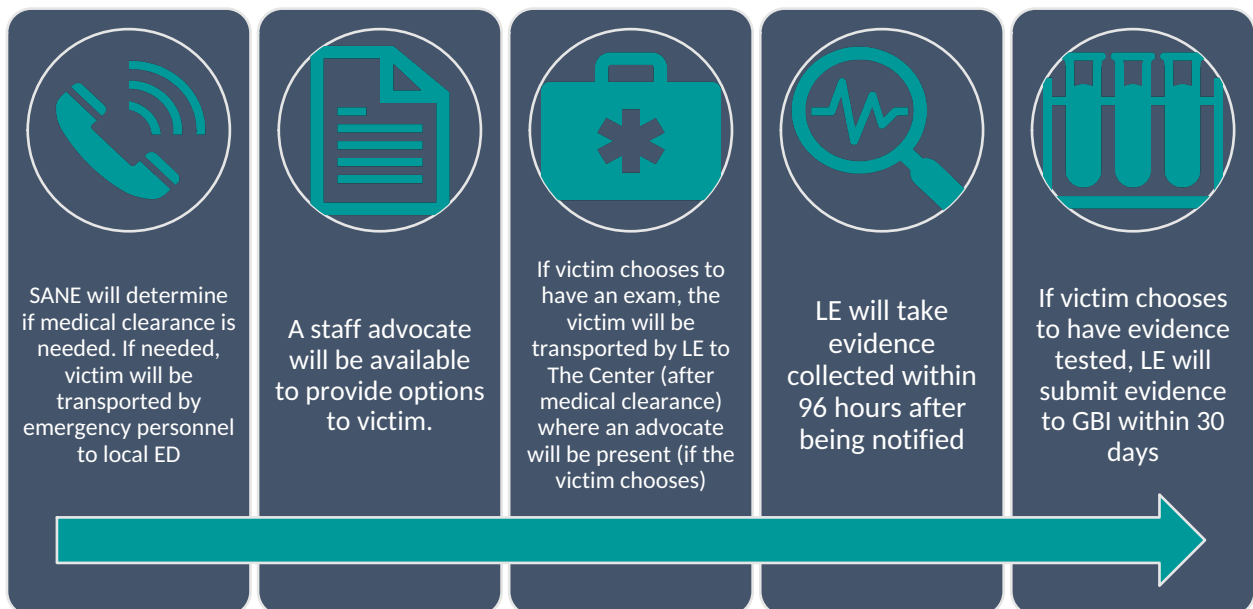
Victim reports to hospital accompanied by law enforcement



Victim Presents Directly to The Center At 909 and Is Medically Cleared

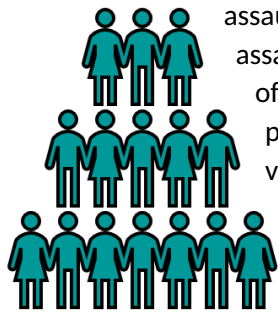


Victim Presents Directly to The Center at 909 and Is Not Medically Cleared



The Role of the Victim Advocate

Services to victims may be provided by a number of programs or agencies within a community including sexual assault centers, victim assistance programs, or other crisis centers or programs. These programs can



be non-profit or governmental and may become involved at various points in a sexual assault case. 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 specific junctures in the case, many victim service programs help victims from "start to finish" to aid in the survivor's recovery.

Victim service providers 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:

- Helping prevent additional trauma or injury to the victim.
- Protecting and ensuring the victim's privacy.
- Helping victim's deal with any problems encountered during the aftermath of the crime.
- 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.
- Assisting victim's complete compensation application for non-reimbursed expenses caused by the crime such as medical, counseling, prescriptions, lost wages, etc.
- 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, et. Seq.**, how to request various notifications (e.g., notices of bond hearings, release of defendant from incarceration, case status), and how to provide input during the case proceedings.
- Encouraging and supporting victims to become active participants in their own case; and
- Offering support and assistance to the families of victims.

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 is essential for the victim service organization to be the effective "hub of the wheel" for victims.

[Appendix D](#) references various types of victim assistance programs that may exist in some jurisdictions.

The victim advocate provides essential support, reassurance, crisis intervention, safety planning, and information to victims of sexual assault during the medical, investigative, and judicial process. They are trained to assess victim needs and to provide counseling, advocacy, information, referrals, and support. Additionally, they serve as important liaisons with SANEs, law enforcement officers and prosecutors throughout the entire criminal justice process.

Victim advocates are an important resource for explaining victim's rights. They assess ongoing victim safety issues and provide referrals to medical, counseling, and social service resources. Advocates may assist prosecutors in identifying expert witnesses and supporting victims in court.



In the Chattahoochee Judicial Circuit, advocates from the Sexual Assault Support Center, Inc. (aka SASC and The Center at 909) are on call 24 hours a day. When local law enforcement receives a report of a sexual assault, the law enforcement officer shall contact 911 dispatch to request a victim advocate; 911 dispatch shall then in turn **contact The Center's Hotline at 706.571.6010** in order to dispatch a victim advocate to the medical facility. IF the victim makes first contact through The Center and /or the hotline, then the advocate on call should assess victim safety issues and inform the victim or caller of their options for services and involvement in the criminal justice system.

Advocates may also provide referrals to medical, counseling, and social service resources. The role and responsibilities of the advocate are defined below:

- **The Victim Advocate**, in coordination with the attending SANE or health professional, will assess and accommodate the special needs of the patient/victim including but not limited to any needs relating to language or culture, physical or mental ability, age or gender.
- **The Victim Advocate**, in coordination with the attending SANE or health professional, will provide supportive, unbiased information concerning available options about emergency contraception, follow-up counseling, and reporting methods.
- **The Victim Advocate** will provide crisis intervention, support, and referrals to the patient/victim and to family and friends.
- **The Victim Advocate** will determine the need for safety planning and will assess whether the patient/victim is in need of food, clothing, shelter, transportation, and will access or assist in accessing services and or resources.
- **The Victim Advocate** should be present while the SANE conducts medical and forensic history, and the exam, if the patient consents. If time and situation permit, the Advocate may be present while the Officer conducts the initial victim statement, if the victim consents. If the initial victim statement is conducted in the field, the Advocate may be contacted as soon as the safety of the victim and others is ensured.
- **The Victim Advocate** may be present while the Officer conducts the comprehensive interview if the victim consents.
- **The Victim Advocate** may also accompany the victim through the court process, including but not limited to the preliminary hearing, bond hearing, prosecutor's meetings or interviews, grand jury, arraignment, or trial.

The Advocate should remain mindful that advocacy is but one component of a multidisciplinary team, and that the team concept is crucial in ensuring a **VICTIM-CENTERED** approach to the response. The Victim Centered Approach means that the needs and interests of victims are of central concern to system personnel as they respond. For an Advocate this means:

- Advocating on behalf of the survivor's right.
- Abstaining from any part of the process that the survivor does not want an advocate to attend.
- Giving full consideration to survivors' wants and needs, and when presented with conflicting choices, deferring to the choice of the survivor.
- Ensuring the survivor has the information and knowledge to enable them to make informed decision.

- Respecting the human dignity and the uniqueness of the victim, unrestricted by consideration of ethnic, age, social or economic status, personal attributes, sexual orientation, disability, or the nature of the health problem.
- Maintaining respect for the survivor in interdisciplinary communications.
- Working collaboratively with team members to ensure the provision of quality services to the survivor.
- Reinforcing explanations by SANE/Healthcare provider, law enforcement, prosecution, and other professionals when appropriate; and
- Acting as a liaison between SART members and the survivor.

A. Victim Advocate and Victim Service Providers

Confidentiality/Privilege

The two main types of communication in advocate-victim relationships are privileged and confidential communication.

COMMUNICATIONS BETWEEN VICTIMS AND AGENTS PROVIDING SERVICES: O.C.G.A. § 24-5-509(B)

An agent of a program cannot be compelled to disclose any evidence in a judicial proceeding that the agent acquired while providing services to a victim, so long as such evidence was necessary to enable the agent to render services, unless the privilege has been waived by the victim or a court determines otherwise.

Privileged communication is addressed in Georgia law (see quote) and states no advocate of a domestic violence or sexual assault program can be forced to give court testimony or provide records to a court pertaining to any victim they have served - except in very narrow circumstances as outlined in the law.

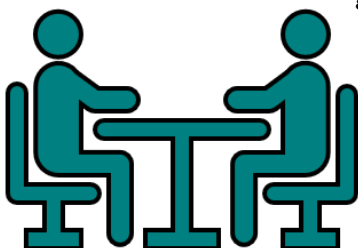
To qualify for the privilege:

- an advocate must be a current or former employee or volunteer with

a program whose main purpose is to provide domestic violence or sexual assault services to victims and their families

- the program cannot be under direct supervision of a law enforcement agency, prosecuting attorney's office, or government agency, and
- the advocate must have completed a minimum of 20 hours of family violence and sexual assault intervention and prevention training.

This law applies primarily to community-based advocates. If a party to a legal action wants information or documents to be disclosed in a criminal or civil proceeding, they must present a court order. Advocate privilege is a qualifying privilege and not an absolute. Limitations and exceptions of advocate privilege exist in criminal and civil proceedings. An advocate is required to report suspected child and/or elder abuse or neglect. A victim can waive advocate privilege giving the advocate the permission to testify in court proceedings or provide documentation to the court. For further information about limitations, please refer to Georgia Code **O.C.G.A. § 24-5-509.**



Confidential communication is communication made with the expectation of privacy and that is not accessible or known to others. Advocates should educate themselves on the basics of maintaining confidentiality and understand the scope of confidentiality with each agency involved. Advocates should use this knowledge to determine the best method for maintaining their records of contact with victims. Victims will not seek assistance if they do not feel a sense of security; thus, an integral part of protecting a victim's confidentiality begins with establishing a relationship based on trust and respect. Advocates must be committed to maintaining the highest possible level of confidentiality in their communication with victims. All advocacy agencies and programs must provide victims with a reasonable expectation of confidentiality with respect to their conversations and exchanges.

A best practice for community-based advocates is to obtain written permission from victims prior to contacting or sharing information with any other service providers or responders. Victim-witness advocates and other system-based advocates, on the other hand, are not in a position to guarantee confidentiality to victims because they are employed by a law enforcement or prosecuting attorney's office. Since system-based advocates are employed by a government agency, anything said to them is part of their employment and can be discoverable. It is, therefore, a best practice for these advocates to inform victims (prior to the victim's disclosure) about the level of confidentiality that can and cannot be afforded to them.

B. Mandatory Reporting for Advocates:

Per Georgia code, advocates are mandatory reporters. Mandatory reporting applies to suspected cases of child and adolescent abuse (under age 18) of physical and sexual assault and neglect. Mandatory reporting does not apply to adult victims unless the patient is disabled or over 65 years of age. Please see [Appendix C](#) for Georgia Mandatory Reporting Laws.

C. Medical Forensic Exam:

Pursuant to the National Protocol for Sexual Abuse Medical Forensic Examinations¹², it is **best practice** for a victim advocate to be present during a forensic medical exam. The advocate's role during the victim's forensic medical exam is to provide emotional support. The advocate will often be the first to interact with the victim; therefore, they are in a unique position to empower, inform, and to establish a supportive, safe environment. *However, the advocate must not directly assist in the forensic collection of evidence in any way.* It is important for advocates to be able to discern their role in providing emotional support. They must also support the need of the forensic examiner to develop rapport with the patient. It is important for advocates to understand that they provide continuity of care and their relationship with the victim does not end after the exam. Their role is unique in that they often provide comprehensive, long-term services designed to address any needs relating to the assault.

¹² "Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault." *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

The Role of the Medical/Health Professional or Sexual Assault Nurse Examiner (SANE)

A victim will often report sexual assault first to a health care professional or facility.

In this portion of the Protocol, the survivor will be referred to as patient, to reflect the person's actual status when dealing with healthcare providers. In the event that a patient indicates that there has been a sexual assault, medical personnel will call 911 who will dispatch law enforcement. If the patient is an adolescent (ages 15-17), the patient may be transported to The Center at 909 or Children's Tree House.

As per **O.C.G.A. §17-5-72**, the adult victim has a choice to consent to a forensic medical exam or not, either as a reporting or non-reporting case. Law enforcement or the medical facility will call SASC: The Center at 909 to have an advocate dispatched as soon as possible. After initial triage is completed at medical facility, the patient will be transported to The Center for the examination. The on-call advocate will notify The Center's Sexual Assault Nurse Examiner (SANE) Coordinator or a contracted SANE. The SANE is an advanced trained nurse who serves the patient by providing prompt, objective, compassionate and comprehensive medical treatment, and forensic evaluation within a coordinated community response.

The primary objectives of the SANE or other trained healthcare providers are to provide:

- Life-saving interventions
- Timely patient treatment
- Evidence recognition, preservation, and collection

SANE's or other trained medical professionals accomplish this by:

- Providing assessment and treatment of the patient, assuring life-threatening injuries are identified and treated.
- Treating the patient as one would any other traumatized patient that is seen in a medical facility. The physical and psychological well-being of the sexual assault patient is always given precedence over forensic needs.
- Remembering that the patient is a crime scene. Conduct and document each exam knowing that fact and/or expert testimony in court may ultimately be required.
- Providing timely, priority care to the patient.
- Providing a medical forensic examination by a specially trained medical professional.
- Providing treatment appropriate to the patient's injuries, including but not limited to, prophylaxis for sexually transmitted infections (STI's) and emergency contraceptive protection.
- Providing written instructions to the patient, detailing what further medical care they should seek, referrals to other healthcare providers, and the local advocacy agency.
- Maintaining the confidentiality of the patient and integrity of the medical forensic record.

Healthcare providers (other than a SANE) should be currently licensed in the state of Georgia and (preferably) specifically trained to provide comprehensive care to the sexual assault patient. A healthcare provider should be one of the following qualified professionals:

- A registered nurse
- A nurse practitioner
- A physician assistant
- A physician

Adult victims of sexual assault have the following reporting options:

- Reporting the assault to law enforcement and having evidence collected.
- Choosing NOT to report and NOT having evidence collected.
- Choosing to have evidence collected anonymously and stored for no less than 12 months.

Whichever decision is made by the victim, they should be supported by the SANE or medical professional. The victim who decides not to report or who is undecided should be assessed and treated in the same manner as the victim who is reporting.

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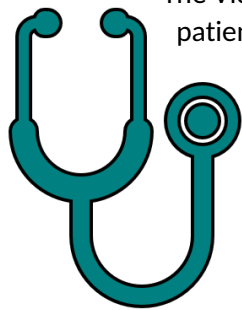
A. The roles and responsibilities of the SANE or medical professional are outlined below:

- **The SANE** or medical professional will first assess the patient for acute medical needs and provide stabilization, treatment for acute injuries, and/or consultation. At times, treatment of other injuries may be delayed to ensure that evidence is preserved.
- **The SANE** or medical professional will conduct a complete medical and forensic examination in a supportive and objective manner in order to treat the patient and collect evidence according to the National Protocol for Sexual Assault Medical Forensic Examinations Standards or the International Association of Forensic Nursing (IAFN) Standards.
- **The SANE** or medical professional, in coordination with the Victim Advocate, will provide supportive, unbiased information concerning available options about medical care, emergency contraception, follow up counseling, and reporting methods. Consents are obtained as appropriate.
- In the event that the patient chooses the anonymous reporting method, the attending SANE or medical professional, in coordination with the Victim Advocate, will provide information on the evidence holding period and timeline, method for future contact if and when the victim chooses to convert to the standard reporting method, and how anonymous reporting may affect any possible future prosecution.
- **The SANE** or medical professional will also conduct an assault history to guide the forensic examination focusing on information about the assault such as the day and time of the assault; characteristics of the assault such as penetration of any orifice, weapons, forms of violence, and resulting injuries; the patient's level of consciousness during the assault; and

whether the patient has bathed, showered, douched, urinated, etc. since the assault. The SANE or medical professional will allow the Officer and/or Advocate to be present during the interview if the victim consents.

- **The SANE** or medical professional will conduct the forensic medical examination and properly collect and document any evidence. The SANE or medical professional will allow the Victim Advocate to be present if the victim consents. The Law Enforcement Officer should not be present for the forensic medical examination.
- **The SANE** or medical professional will photograph the patient's injuries if the patient consents.
- **The SANE** or medical professional does not attempt to gather detailed investigative information such as the height or weight of the perpetrator, but they will document what is necessary to guide the forensic exam and treat the patient.
- **The SANE** or medical professional coordinates with the Victim Advocate to determine whether or not the victim is safe both physically and emotionally and will assist as needed in determining the need for safety planning.

Any healthcare professional(s) should remain mindful that medical care and forensic evidence collection is but one component of a multidisciplinary team response to sexual assault and that the team concept is crucial to ensuring a Victim Centered approach to the response.



The Victim Centered approach means that the needs and interest of the sexual assault patient are of a central concern to system personnel as they respond. For healthcare providers this means they will:

- Be an advocate for the patient's physical and psychological well-being.
- Provide the patient with a safe, secure, and private place for their exam and treatment.
- Ensure patient confidentiality is maintained at all times.
- Ensure that the forensic medical examination is conducted; and
- Serve as an advocate of the truth by creating an accurate and truthful medical forensic record that will assist in the investigation of the legal case by the law enforcement agency.

B. The Medical Facility

The medical facility administration must support the SART and the physicians and nurses who wish to provide forensic medical examinations. Unless the facility administration supports the program, the medical team will find it very difficult to maintain an adequate level of service. Each medical facility should meet the minimum standard as outlined in the industry's standard of practice. This involves, but is not limited to:

- A dedicated room or a room that can be easily converted to use for the examination. The room should be able to be locked from the inside and have a bathroom and/or shower attached.
- A quiet, comfortable place out of the public spaces of the facility where the patient can wait for the examination to begin. Also, this space can be used by Advocates, clinical support staff, and Law Enforcement to speak with and counsel the patient, their partner,

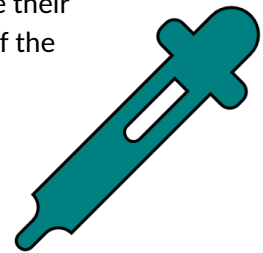
- and/or their family.
- Appropriate equipment available to magnify body surfaces, ability to illuminate body surfaces with an alternate light source, and photography that will allow accurate identification of the patient's injuries and facilitate the accurate documentation of them.
- Specially trained medical professionals to conduct the forensic medical examination.
- Specially trained medical professionals to present fact and expert witness testimony in court without the medical professional experiencing personal financial loss.
- Confidentiality and integrity of the medical forensic records, held in a secure location, with limited access. Maintain a record of those that see or obtain a copy of this record.

Not every medical facility in the SART's locality will be able/want to provide these services to the sexual assault patient. If a facility does not meet the comprehensive care level, then procedures should be in place to facilitate the timely transfer of the patient to a designated facility. Once the medical facility has been designated, all components of the SART need to make their members aware of the designation, minimizing the delay in the performance of the forensic medical examination.

C. The Forensic Medical Examination:

The purpose of the forensic medical examination includes:

- Identifying medical evidence to prosecute the offenders
- Screening for injuries/medical conditions and initiating medical treatment when needed
- Answering questions and reassuring patients about their physical wellbeing.



The forensic medical examination should be conducted by the SANE or other medical professional as soon as possible, but within **120 hours post assault¹³**. Passage of time and the healing process can obscure medical evidence (trace evidence and physical injury) and decrease the effectiveness of prophylactic medications.

The forensic medical examination is first and foremost a medical evaluation looking for traumatic injuries of a sexual assault victim. It is an integral part of the medical process that provides comprehensive care of the patient. The forensic medical examination involves:

- A complete and thorough past and current medical history of the patient
- A detailed history of the assault / incident
- A head-to-toe physical examination
- A detailed anogenital examination
- Collection of specimens for sexually transmitted infection (STI) testing, with or within serum for HIV/Syphilis
- Photo documentation with magnification

The evidence collection portion of the forensic medical examination includes:

¹³

US Department of Justice Office of Violence Against Women. (2013), A National Protocol for Sexual Assault Medical Forensic Examinations: Adult/Adolescent 2nd ed., p. 8.

- A Sexual Assault Evidence Collection Kit (rape kit) when the assault included the exchange of bodily fluids or trace evidence and occurred within the past 72 hours (in some cases collection may be helpful up to 120 hours after the incident). The rape kit includes:
 - a. Collection of blood, urine, hair, and other bodily secretions as deemed necessary.
 - b. Collection of the patient's clothing, especially undergarments; and
 - c. Collection of any possible physical evidence that may have transferred onto the victim.
- Maintain and document the chain of custody for evidence.
- Maintain the integrity of the evidence to ensure that optimal lab results are obtained.

In accordance with **O.C.G.A. § 16-6-2**, the cost for the forensic medical examination will be paid

In accordance with O.C.G.A. § 16-6-2, the cost for the forensic medical examination will be paid through the Georgia Crime Victims Emergency Fund as provided for in Chapter 15 of Title 17 to the extent the expense is incurred for the limited purpose of collecting evidence.

through the **Georgia Crime Victims Emergency Fund as provided for in Chapter 15 of Title 17** to the extent the expense is incurred for the limited purpose of collecting evidence. The billing costs for all exams, whether conducted at various medical facilities, shall be the reimbursable amounts set

by the **Victims Compensation Forensic Medical Examination Fee Schedule** which reflects the maximum allowable cost for each service and/or procedure related to the forensic medical examinations for sexual assault victims. Total billing per victim shall not exceed two exams per year with all bills per application not to exceed \$1,000 per victim per state fiscal year.

D. Treatment Protocols

- The patient is treated prophylactically for sexually transmitted infections (STI's), per the current CDC guidelines.
- Discuss the probability of pregnancy with patients and administer a baseline urine pregnancy test for all patients with reproductive capability. Post-coital contraception may also be considered if the pregnancy test is negative.
- Aftercare instructions and education are 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.

E. Conclusion

The sensitive treatment of sexual assault victims and the careful collection of the forensic evidence related to their assault will require much from the SANE or other health care providers. However, 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. **Therefore, the sexual assault exam and collection of evidence should be performed by a trained SANE, when at all possible, or other forensically trained medical professional to ensure the success of these two purposes.**

Audiotaping Or Videotaping the Forensic Medical Exam Interviews

Forensic medical exams and medical history interviews should not be audio or videotaped. Interviews conducted by SANEs should be limited to medical history and sexual assault history pertinent to guiding the exam only. It is imperative that every SANE remains focused on their role as a medical professional, while also protecting the privacy and confidentiality of the patient in their care.

Clinical Role of The SANE

It is important that SANEs stay true to their clinical role focused on facilitating medical forensic exams. The SANE role is to provide care to the patient after a sexual assault using a "patient-centered and legally objective approach; integrating patient advocacy and observation" (FN Scope and Standards of Practice 2nd ed, 2017) during the medical forensic evaluation of the patient.

SANEs are trained to perform medical forensic exams, not to conduct a forensic interview or stand in as a law enforcement officer. Blurring these lines violates HIPAA, puts a nurse at risk of losing their license, and compromises the SANE's ability to provide testimony based on the conversations conducted with the patient during the exam.

Standards Of Practice

Medical professionals are required to make and keep records of their professional practice in accordance with the protocols and standards of their professional practice. It is currently not a standard of practice for audio and or video recording to take place during the medical-patient interaction nor is this practice recommended during the medical forensic examination. The Department of Justice – Office on Violence Against Women "A National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents, 2nd Edition is a protocol endorsed by the International Association of Forensic Nurses and the Academy of Forensic Nurses.

HIPAA

Nurses, like all medical professionals, are subject to HIPAA. The medical forensic examination includes obtaining a medical history, and the patient may disclose personal or protected health information not pertinent to the evidentiary process at any point during the medical forensic examination. According to HIPAA, health information cannot be released to someone who is not a health care provider or other "covered entity" without written authorization from the patient to release the record. Additionally, the American Nurses Association (ANA) has standards of practice that state, "access to identifiable and confidential information... [it] must be protected and access to it controlled."

Crawford V. Washington

As documented in case law, nurses that execute traditional law enforcement activities may forfeit the right to provide testimony on the information a patient discussed during the forensic exam.

“For health-care providers, Crawford and its progeny do not change the priorities of the medical-forensic examination, which should continue to hold the health and well-being of patients of primary importance. The problem arises when clinicians are perceived to be investigators rather than health-care providers. Even in cases in which a victim is cooperating in the prosecution of the perpetrator, statements made to the examiner for the purpose of medical diagnosis and treatment may still be excluded as hearsay if it is Georgia Sexual Assault Response Team Guide 2021 68 established that the examiner is acting as an arm of law enforcement rather than acting primarily as a medical treatment provider.”

Nursing Ethics

As part of obtaining and receiving their professional license, nurses are expected to adhere to a code of conduct that includes obligations to protect patient confidentiality.

The American Nurses Association (ANA) Code of Ethics states, “Nurses safeguard the right to privacy for individuals, families, and communities. The nurse advocates for an environment that provides sufficient physical privacy, including privacy for discussions of a personal nature.

Confidentiality pertains to the nondisclosure of personal information that has been communicated within the nurse-patient relationship. Central to that relationship is an element of trust and an expectation that personal information will not be divulged without consent. The nurse has a duty to maintain confidentiality of all patient information, both personal and clinical in the work setting and off duty in all venues, including social media or any other means of communication.

Because of rapidly evolving communication technology and the porous nature of social media, nurses must maintain vigilance regarding postings, images, recordings, or commentary that intentionally or unintentionally breaches their obligation to maintain and protect patients’ rights to privacy and confidentiality. The patient’s well-being could be jeopardized, and the fundamental trust between patient and nurse could be damaged by unauthorized access to data or by the inappropriate or unwanted disclosure of identifiable information.”

A Note On: Self-Administered Sexual Assault Evidence Collection Kits

In 2019, self-administered sexual assault evidence collection kits were marketed as “over-the counter” products by private businesses. These self-described “DIY” kits imply that a victim of a sexual assault can safely and effectively self-administer the collection of potential biological evidence in the aftermath of their sexual assault. It further suggests the collected samples may be deemed the equivalent of evidence collected by a licensed healthcare provider such as a specially trained sexual assault nurse examiner or non-nurse forensic examiner – and accepted by law enforcement as evidence for crime lab testing.

Joining the International Association of Forensic Nurses, RAINN and multiple attorneys general across the country, the Georgia Sexual Assault State Expert Committee strongly opposes the use or promotion of any self-administered sexual assault evidence collection kit.

“All victims of sexual assault should receive a medical-forensic examination and collection of evidence from a licensed healthcare physician or RN provider; a sexual assault nurse examiner (SANE), or sexual assault non-nurse forensic examiner (SAFE). Such examinations are to be made available to a victim and completed at no charge, and regardless of whether sexual assault is reported for a law enforcement investigation or is not reported.”

Patients/ victims presenting as a result of sexual assault victimization hold very unique and distinct considerations that dually envelope healthcare and forensic legal considerations. True patient-centered responses must respond with protections for both healthcare and forensic needs.

Safety And Risks

Safety and risk for injury with self-administering collection of sexual assault evidence, although minimal, still remains a reality. A person in the aftermath of a sexual trauma attempting to swab their own body and orifices holds a real risk for accidental injury or additional trauma. Risks associated with transfer of biological evidence (DNA), contamination, etc., are not within the normal realm of an individual's knowledge or skills. Additionally, a victim's emotional or psychological trauma can lessen their ability to follow directions or manage details or to later recall how samples were collected and managed afterwards.

At times, there are safety concerns to the victim (the offender is known to them, goes to school with them, lives nearby, etc.). Ensuring that the victim has a safe environment to return to, or a plan in place if there are any home safety risks or concerns, is a critical part of a professional SANE exam that a victim who uses a DIY kit does not have access to.

Quality Controls and The Criminal Justice System

A self-administered sexual assault evidence collection kit is forensic in nature, and therefore, will be challenged and subjected to the highest level of scrutiny by the criminal justice system. Such challenges publicly debated are adversarial, aggressive, emotionally charged and can be significantly re-traumatizing for a victim. Legal challenges of information associated with such DIY samples could arise including:

- how and when the kit was ordered
- how the victim collected certain samples
- the location of the exam
- climate for sample transfer or cross-contamination
- gloves and handling of samples
- packaging
- security controls with storage
- photos
- access to evidence by others

Chain Of Custody

One major concern is a documented, corroborated, and/ or verifiable chain of custody record associated with any evidence. Legal challenges associated with a chain of custody are vigorous even for law enforcement that are trained and skilled in managing evidence. The Georgia Bureau of Investigation (GBI) crime lab contracts with a standardized provider of sexual assault evidence collection kits that is compliant with content specifications and is designed for a coordinated deconstruction by the lab and distributed for efficient standardized bench analysis. A variety of kits with random contents and packaging may be inconsistent and in conflict with standardized lab protocols in bench-work analysis of such contents.

These all represent tangible and serious concerns about whether law enforcement will, or can, actually accept self-collected sexual assault evidence kits as evidence, and/or - what, if any, probative value it may hold in light of the array of challenges and the extreme level of scrutiny it, and the victim will likely have to endure.

Compounding Emotional and Psychological Trauma of Victims

In addition to the scientific and legal challenges, the emotional, psychological, and physical trauma experienced by a sexual assault victim would be remarkably compounded with the added responsibility to safely and effectively collect potential biological evidence from parts of their own body, following a physically invasive and traumatic sexual assault. Early instructions released with self-administered sexual assault evidence collection kits suggested, “...engage a friend to aid in the collection” – this recommendation is devoid of both the personal humiliation and legal challenges and complexities of such a suggestion. Only a licensed healthcare provider is capable of completing a healthcare assessment of an individual that may have suffered internal (e.g., oral, anogenital) or other associated injury (e.g., head trauma, vaginal wall lacerations, bleeding, bruising, strangulation, etc.). Sexual assault victims are also potentially exposed to sexually transmitted infections (STIs) and should receive appropriate prophylactic treatment in accordance with their overall medical history.

Perhaps most importantly, self-administered sexual assault evidence collection kits deprive and further isolate patients/ victims from critically important access to advocacy. Sexual assault advocates are knowledgeable in assisting victims with acute and chronic trauma and ongoing emotional and psychological challenges. Access to trained sexual assault victim advocates will significantly improve the likelihood that a victim will heal from this trauma and overcome emotional challenges. Advocates also offer contact information and referral to vital community resources best equipped to assist victims and families in their distinctive individual needs, this includes information and assistance with Georgia Crime Victims Compensation eligibility and applications.

Conflicts And Concerns

These are just a few of the concerns currently voiced in response to the availability of “self-administered sexual assault evidence collection kits,” and there are many more. The promotion and messaging associated with such kits is definitively contradictory to the standards of response, care, and services represented in the Georgia Sexual Assault Standards, and the National Protocol for Sexual Assault Medical Forensic Exams, (IAFN, Rev. 2013). It must also be noted that the promotion of any self-administered sexual assault evidence collection kit stands in contradiction with the U.S. Department of Justice, Office on Violence Against Women (OVW), that requires each state to certify they provide a

medical-forensic examination and collection of evidence to all victims of sexual assault, at no cost to the victim, regardless of the victim's individual choice to report the assault to law enforcement for investigation, or not to engage the criminal justice system.

The Role of the Prosecutor

The District Attorney is the chief law enforcement officer for the Chattahoochee Judicial Circuit. The primary responsibility of the District Attorney is to see that justice is accomplished within the framework of the United States Constitution and the laws of the State of Georgia. The District

Attorney represents the State of Georgia in the prosecution of felony criminal cases in the Superior Court. Misdemeanor cases are prosecuted in State Court by the Solicitor General in Muscogee County and by the District Attorney in other counties that do not have a Solicitor General.



The prosecutor is committed to ensuring the public safety and the safety of victims through effective and efficient prosecution of cases. It is the role of the prosecutor to lead victims through the criminal justice process and be their voice in the pursuit of justice, recognizing that every case and every victim is unique. It is very important to the prosecutors seek convictions that will hold offenders accountable for their actions, and to seek sentences that adequately punish the perpetrator for the crime committed while at the same time protecting the constitutional and legal rights of the accused.

Prosecutors play a pivotal role in the outcome of sexual assault complaints with the most critical decision being the decision to prosecute or not prosecute after evaluating whether there is enough evidence to proceed in court.

If charges are filed, the victim is afforded many rights pursuant to the Victim's Bill of Rights, **O.C.G.A. § 15-17-1, et. Seq.**, found in [Appendix A](#). The District Attorney's Office and Solicitor General's Office, with assistance from Victim Advocates, strive to keep the victim notified and informed on all developments in the case. The victim has the opportunity to appear and be heard in court proceedings and has a direct line of communication with prosecutors.

Although the ultimate decision of how the case will proceed rests within the sole discretion of the prosecutor, input from the victim is an important component in the decision-making process and carries considerable weight in determining the best course of action.

Victims should feel comfortable that prosecutors will explain the various stages of the court proceedings to them and prepare them to testify in court should it become necessary. Steps are taken to ensure that the victim is safe in the courtroom setting. Each victim presents with unique circumstances of victimization. The District Attorney's Office and Solicitor General's Office strives to listen to what each victim of sexual assault has to say, answer any questions, and address any concerns each victim may have, and make the best possible decision on how to proceed on behalf of the victim.

The Chattahoochee Judicial Circuit's team approach to prosecuting offenders best serves victims while promoting accountability and punishment for perpetrators of sexual abuse and violence. The

prosecutor(s) should remain mindful that prosecution is but one component of a Multidisciplinary Team, and that the team concept is crucial in ensuring a **Victim-Centered** approach to the prosecution.

The **Victim-Centered** approach means that the needs and interests of survivors are of central concern to system personnel as they respond. For a prosecutor this means:

- Enhancing cooperation between the prosecutor's office and community organizations that may assist the victim(s).
- Giving victims choices and options whenever possible.
- Demonstrating sensitivity by using non-judgmental questions, comments, and body language.
- Establishing and maintaining communication and relationships with area law enforcement, advocates, child and adult protective services, and community medical/forensic services.
- Facilitating communications within the prosecutor's office and among members of the SART; and
- Maintaining respect for the survivor in interdisciplinary communications.

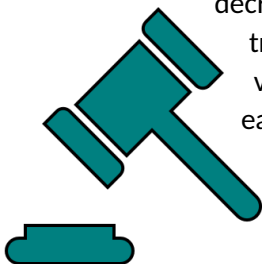
A. Roles and Responsibilities of Prosecution

According to the National District Attorneys Association, the primary responsibility of prosecution is to see that justice is accomplished.¹⁴

In responding to sexual assault cases, this means prosecutors provide for the safety, well-being, and protection of rights of the victim and the community by holding the offenders of these crimes accountable through the prosecution of sexual assault cases. To accomplish this task, prosecutors must work in collaboration with law enforcement, victim advocates, medical personnel, crime lab personnel, and the victim. Prosecutors are responsible for reviewing sexual assault reports to determine if enough evidence exists or could be obtained to file criminal charges. If the victim chooses to participate in the investigation and prosecution of the case, prosecutors then have the added challenge and responsibility of responding in a victim-centered way that meets the needs of the victim as well as the needs of the community.

The goal of providing a victim-centered, offender-focused, and trauma-informed approach is to decrease re-victimization by ensuring victims receive compassionate and respectful treatment and to hold the offenders accountable. Prosecutors maintain a victim-centered approach by giving serious consideration to the prosecution of each case, supporting the victim's rights under the Georgia Crime Victims' Bill of Rights, and providing direction as part of the SART to increase the number of cases that are suitable for filing. Prosecutors also determine if there is sufficient evidence against the offender or if additional investigation is needed. Offender-focused prosecution allows the use of prosecutorial tools such as Federal Rules of Evidence 404(b), 608, and 609.

According to the National District Attorneys Association, the primary responsibility of prosecution is to see that justice is accomplished.



¹⁴ National District Attorneys Association. (2012). National Prosecution Standards. Third Edition. <https://www.ndaa.org/pdf/NDAA%20NPS%203rd%20Ed.%20w%20Revised%20Commentary.pdf>

B. Initial Case Evaluation

Vertical prosecution is considered best practice in all sexual assault cases. This means that the same prosecutor is assigned to the case from beginning to end, allowing the victim to work with the same prosecutor and investigator from the time potential charges are first reviewed through the sentencing of the offender. Vertical prosecution has been shown to improve conviction rates, reduce victim trauma, and provide more consistent and appropriate sentencing.

Helpful Hint:

Prosecutors are uniquely positioned to educate the community, jury by jury, about the dynamics of sexual assault and the tactics the perpetrators use.

in the criminal justice process and to learn how the victim hopes the case will be resolved. This meeting provides prosecutors a feel for the case beyond just reading a report. It also demonstrates to the victim that the prosecution is taking the case seriously.

Prosecutors should include a victim advocate during all interviews and meetings with the victim, as the advocate can provide emotional support to the victim as they share details that are important in the case.

Prosecutors should also be mindful that victims might believe that the prosecutor is “their” attorney, representing their individual interests. This misconception should be addressed and clarified at the beginning so as not to result in misunderstandings and disappointment on the part of the victim.

Interviewing the victim provides prosecutors the chance to review the case from the victim’s perspective, explain the criminal justice process, uncover potential details that may have been overlooked in the investigation, and determine what outcome the victim desires. The victim needs a safe environment in which to explain what occurred during the assault and the relevant facts. To create a safe environment and establish rapport:

- ensure that an advocate is present for victim emotional support.
- allow adequate time for the interview.
- conduct the interview in a place where the victim feels safe and is able to speak freely.
- adopt a “seeking to understand” perspective in questioning the victim.
- assure that the victim is safe by ensuring the defendant is not present or in the area.
- review the victim’s rights and explain the prosecution process, including rape shield law, preliminary hearing, pleas, trial, potential sentencing, etc.; and
- inquire about any threats made towards the victim.

C. Victim Interview

It is recommended that prosecutors meet with the victim in person before making a determination about whether charges should be filed against the offender. This allows the prosecutor to assess the victim’s ability to participate

D. Collaboration with Law Enforcement

Prosecutors should review the investigation reports carefully prior to meeting with the victim, as they may learn new information that can either strengthen or weaken the case against the offender. It is also important that prosecutors work closely with law enforcement to ensure the collection of evidence needed to substantiate a case. They should also meet with law enforcement to discuss the investigation prior to making a charging decision in the case.

E. Filing Charges

The determination to file charges in a sexual assault case is more complex than merely evaluating the evidence. It is the nature of sexual assault crimes that little or no physical evidence may be present. However, corroborating witness statements, participation of the victim in the case, and other acts committed by the offender play a significant role in the prosecution of the case. Prosecutors understand the danger in focusing on what appears to be negative victim characteristics or conduct. Instead, they should carefully consider all of the offender's conduct, behaviors, and characteristics. This includes the practice most offenders use in targeting victims who are vulnerable, who may not report the crime, or who may appear unsympathetic and not credible. Prosecutors should avoid basing the charging decision on the victim's actions that may increase risk or the culpability of the offender. Offenders are likely to present themselves as highly credible while their victims may not.



The prosecutor should discuss the decision to file or not to file charges personally with the victim. If charges are not filed, the victim is more likely to respect the prosecutor and the legal system if she/he feels respected and understands why the decision was made. This discussion should occur promptly, before the defendant is notified, and an honest explanation for the decision should be offered to the victim.

When the decision is made to charge the offender, prosecutors should work with victim advocates to support victims in the criminal justice process by:

- recognizing the emotional and psychological limits of victim.
- explaining to victims the process of the investigation and prosecution.
- explaining court attendance to victims.
- providing prompt notification of court proceeding dates, times, and any changes.
- discussing the estimated timeline of the case.
- preparing victims for testimony and estimating the amount of time they will be on the stand.
- preparing victims and family members for disclosure of traumatic information in the trial (911 tapes, photos, etc.).
- cautioning victims about the potential consequences of discussing the case with people outside the criminal justice system.
- ensuring victims are aware of the Georgia Crime Victims' Bill of Rights, including the right to refuse to be contacted on behalf of the defense.
- preparing victims on how to respond to inquiries from defense attorneys, investigators, and the media.

- informing victims about the potential for media presence in the courtroom and rules regarding the limitations on publicity regarding the victim; and
- being mindful of the need to separate victims from the offenders during any proceedings at the courthouse.

Many medical personnel report being more confident in performing forensic medical exams when they understand how closely prosecution and defense examine each aspect of the exam.

F. Developing Prosecution Response

Prosecutors have unique roles on the SART. Through them the SART can track prosecution rates and number of plea agreements reached, and work to educate the judges in the community.

After 3-5 years of operation, it would be appropriate for the SART to begin tracking how prosecution rates have been affected by the presence of the SART.

Having a prosecutor at the table can be a great asset for the SART. Victim advocates, medical personnel, and law enforcement do not necessarily understand how all of their actions can affect the ability of the case to move forward. Prosecutors can offer a unique perspective to assist the team in seeing the “big picture” when it comes to the court system. Many medical personnel report being more confident in performing forensic medical exams when they understand how closely prosecution and defense examine each aspect of the exam.

The following checklists help the other SART members to understand and discuss the roles and responsibilities of the prosecution and assist with development of the prosecution response, which will be used to determine the SART’s first responder protocols. It is vital that each of the first responders review their agency procedures and responses in light of SART collaboration.

a. The SART should discuss the following questions as the answers will lead the team in development of the prosecution response:

- How do we define an optimal investigation of sexual assault crimes to aid us in having better cases to prosecute?
- What will we do if, after the law enforcement investigation, more investigation is needed?
- Are sexual assault cases difficult to prosecute? Why? What would you change?
- How can victim advocates assist in better prosecution of cases?
- How is gaining experience in prosecuting sexual assault cases beneficial to prosecutors?
- Should the District Attorney’s office review every sexual assault case reported to any law enforcement agency that serves the community?
- What should be the criteria in which we base whether to prosecute a case? Simply on merit? Or on merit plus community safety, victim impact, justice? Only if there is DNA evidence?

- h. Should every sexual assault case go to grand jury? What would be the benefit? The drawbacks?
- i. Should we develop specialized sexual assault prosecutors for adolescent and adult sexual assault cases?
- j. What are the benefits and drawbacks to meeting with a victim in person to assess the case? To let her or him know the case will not be going forward?
- k. How does establishing rapport with the victim work toward the end of developing a cooperative witness?
- l. When should the prosecutor have direct contact with the victim?
- m. Are there situations where advocates are not able to be present when prosecution is with the victim?

G. Court Procedure

a. Initial Court Appearance

Going to court can be a very frightening experience for victims. The initial appearance may be the first time the victim has seen the offender since the assault. Offenders and sometimes their family members may attempt to intimidate the victim. A trauma-informed, victim-centered approach recognizes the initial appearance is a critical emotional moment for the victim; the outcome of which may influence the victim's desire to move forward. Prosecutors can support victims by:

- a. discussing the advantages and disadvantages of the victim's attendance at court proceedings.
- b. making sure they are informed about all the facts of the case if they are stepping in for another prosecutor.
- c. planning ahead about where the victim will be waiting prior to and during all court proceedings; and
- d. making sure that the victim and the offender enter the courtroom at different times.

b. Trial Preparation

Utilizing a victim-centered approach, prosecutors recognize the need for victims to be fully prepared for the realities of the trial process: the timeline, expectations upon the victim, and the type of support from the prosecution team. It is extremely important to inform victims of any continuances and other delays. Prosecutors who involve the victim in preparing their case empower the victim and help improve the victim's testimony. This preparation should include:

- a. asking the victim if there are any dates that need to be avoided.
- b. providing the victim with advance notice of pre-trial motions.
- c. providing the victim advance notice of trial dates.

Commonly Used Defense

Defendants in sexual assault cases typically use one of three defenses: 1) that the sexual act was consensual; 2) denial of anything to do with the crime; 3) mistaken identity

- d. ensuring that the victim is fully prepared and as comfortable as possible.
- e. providing courtroom orientation.
- f. encouraging the victim to report to police any violations of no-contact orders and keeping a log of the violations.
- g. ensuring that any interpretation or communication needs of the victim are prepared for before trial and ensuring victim presence during the trial.
- h. reminding the victim that what she/he shares with family and friends is not privileged information and is subject to subpoena.
- i. explaining the right of privilege held by sexual assault victim advocates and encourage the victim to use the victim advocates for emotional support.
- j. explaining to the victim that the courtroom is open during the trial.
- k. considering the use of expert witnesses – interviewing them in advance and preparing them for testimony.
- l. issuing timely subpoenas to the victim and witnesses.
- m. letting victims know that they can ask to take a break and repeat or clarify questions that are confusing or that the victim doesn't understand.
- n. preparing the victim for all testimony and anticipated cross examination; and
- o. explaining that a witness is required to simply answer questions and is not to give narrative answers or raise new topics.

Defendants in sexual assault cases typically use one of three defenses 1) that the sexual act was consensual, 2) denial of anything to do with the crime, and 3) mistaken identity. Trial preparation requires preparing arguments to counter these defenses, as well as addressing the common myths and misconceptions surrounding sexual assault, credibility issues related to the victim, and demonstrating the criminal intent of the defendant.

Presenting the victim as a target and the defendant as a premeditated perpetrator can be extremely helpful. Defense attorneys often raise a host of issues intended to question the credibility of the victim and the legitimacy of the victim's story. Prosecutors may be able to use these credibility concerns to their advantage by arguing that, due to the victim's state of intoxication, history of drug/substance abuse, history of criminal involvement, she/he was, in fact, at a greater risk and more vulnerable to the predatory nature of a sexual offender. Who better for a perpetrator to target than someone who is vulnerable, accessible, and who is likely not to be believed?

c. Jury Selection/Voir Dire

Jury selection is critical to the outcome of a sexual assault trial. The potential jurors bring their own beliefs about sexual assault, misconceptions, and personal experiences. Some jurors may have experienced sexual assault or have a friend/family member who has experienced a sexual assault. Jurors have also been exposed to fictional accounts or dramatized accounts of sexual assault through the media that bear little resemblance to the reality of sexual assault. Identifying the potential impact of a juror's experiences and beliefs is essential in the jury selection process.

Voir Dire is the only opportunity prosecutors have to an interactive conversation with potential jurors and provides an opportunity to address the myths and misconceptions about sexual assault. A frank and non-judgmental dialogue can have a tremendous impact on the likelihood of a conviction.

d. Direct/Cross Examination

The heart of the prosecutor's case is the direct examination of the sexual assault victim. This is the opportunity to introduce the victim to the jury by explaining the background of the victim and the context of the assault. Potential cross-examination points should be incorporated and explained in the direct examination. Similarly, the cross-examination of the defendant should support the victim's testimony, demonstrating that the victim was selected intentionally by the defendant – due to perceived lack of credibility, vulnerability, or accessibility.

e. Sentencing

The sentencing phase of a sexual assault trial can be especially traumatic for the victim and their family members. This is the victim's opportunity to face the offender and share the impact that the sexual assault has had on them, which can be both intimidating and redeeming. To prepare victims for sentencing, prosecutors should:

- a. ask victims if they want to be present in the courtroom, and support their decision if they don't wish to be present.
- b. prepare the victim about how to address the court; and
- c. offer to help the victim create a victim impact statement.

School Resource Officers

The role of a school resource officer (SRO) can vary greatly depending on their work jurisdiction and the specific school to which they are assigned. The primary role of an SRO is considered that of "critical response" (e.g., active shooter, threat assessments, etc.). Other aspects of SRO responsibilities run the spectrum from basic crime prevention and public awareness to gang intervention and intelligence. Some SROs may also be knowledgeable of mental health and drug addiction resources. SROs can serve as a valuable source of information and referral for students, staff, and faculty.

In regard to sexual assault, most SROs serve in a collaborative role: possibly as a first responder, as a liaison with school administrators, and/or as a liaison with local law enforcement for investigative purposes. SROs should be aware of and adhere to current sexual assault response protocols at their school. It is recommended that a sexual assault protocol committee include and acknowledge SROs as an important community and resource partner in response to sexual assault. SROs can lend their knowledge, experience, and a distinct perspective to the strengthen community collaboration.

An SRO can provide insight to the committee on how school administrative policy, and/or standardized police procedure may influence the response and investigation of sexual assault/abuse involving students or staff that may occur on school property, or disclosures of sexual abuse reported to school

authorities. Georgia Sexual Assault Response Team Guide 2021 59 The direct involvement of SROs on the sexual assault protocol committee will also enhance their understanding of local multidisciplinary response protocols, services, and resources that are trauma informed and representative of “best practices.”

It is also recommended that they join their local Sexual Assault Response Team (SART). Being an active member of a local SART can help ensure that SROs have the necessary tools and understanding to respond effectively to a report of sexual assault in a victim-centered manner. In Georgia, SROs are encouraged to attend POST-approved trainings that focus on sexual assault scenarios to gain further education on appropriate methods to address sexual assault disclosures and allegations within their school community.¹⁵

¹⁵ This section was based upon the Georgia Association of School Resource Officers’ (GASRO) Governance and National Policy and Training Guidelines

Collegiate Response

Twenty to twenty-five percent of college women and fifteen percent of college men will experience sexual assault during their college career. More than ninety percent of sexual assault victims on college campus will not report their assault.¹⁶ College freshmen and sophomore women appear to be at greater risk of sexual assault than are upperclassmen. Eighty-four percent of the women who reported a sexual assault experienced the incident during their first four semesters on campus.¹⁷ Students living in sorority houses are three times more likely and students living in on-campus dorms are 1.4 times more likely to be sexually assaulted than students living off-campus.¹⁸ An analysis reviewing more than 200 studies found that being a victim of sexual assault is associated with an increased risk of anxiety, depression, suicidality, post-traumatic stress disorder, substance abuse, obsessive compulsive disorder, and bipolar disorder.¹⁹

When students encounter sexual violence, their trust and sense of safety are violated. This violation can

Helpful Hint for Faculty

Students who need assistance often turn to faculty or staff members they feel comfortable with. Should a student seek assistance or ask to talk about an incident of sexual assault, the faculty or staff member should recognize that the victim is showing a great deal of trust in them.

potentially interfere with their lives and educational goals. Campus administrators, law enforcement and security, advisors, and student health center personnel must be committed to providing a caring, effective, and consistent lawful response to any student who has been sexually assaulted.

An assortment of law enforcement, advocacy, medical, psychological, and administrative services must be made readily available to students who have been sexually assaulted. As such, all campuses are encouraged to develop a relationship with and/or assign a campus liaison to participate in the community's SART, the entity responsible for coordinating forensic, medical, legal, and support services in instances of sexual assault.

Protocols and policies for all types of campus-based law enforcement and security departments must address the progression of both on- and off-campus processes, which may occur simultaneously and independently from one another.

When developing protocols, applicable federal and state laws must be addressed, including:

¹⁶ Cullen, F., Fisher, B., & Turner, M., The sexual victimization of college women (NCJ 182369). (2000). Retrieved from the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: <https://www.ncjrs.gov/pdffiles1/nij/182369.pdf>

¹⁷ Gross, A., Winslett, A., Roberts, M., & Gohm, C. (2006 March 1). An Examination of Sexual Violence Against College Women. Sage Journals <http://journals.sagepub.com/doi/abs/10.1177/1077801205277358>

¹⁸ Mohler-Kuo, M., Dowdall, G. W., Koss, M.P., & Wechsler, H. (2004 January). Correlates of Rape While Intoxicated in a National Sample of College Women. Journal of Studies on Alcohol. <http://archive.sph.harvard.edu/cas/Documents/rapeintox/037-Mohler-Kuo.sep1.pdf>

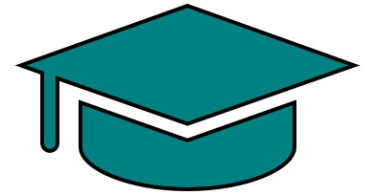
¹⁹ Dworkin, E.R., Menon, S.V., Bystrynski, J., & Allen, N.E., (August 2017). Sexual assault victimization and psychopathology: A review and meta-analysis. Clinical Psychology Review. <https://www.sciencedirect.com/science/article/pii/S0272735817300880?via%3Dihub>

- Title IX
- The Clery Act
- The Campus Sexual Violence Elimination (SaVE) Act

A. Title IX

Title IX is a landmark federal civil right that prohibits sex discrimination in education. Under Title IX, colleges and universities must have an established procedure for handling complaints of sex discrimination, sexual harassment, or sexual violence. Every school must have a Title IX Coordinator who manages complaints. The Coordinator's contact information should be publicly accessible on the school's website.

The school, when necessary, will act to ensure a complainant can continue their education free of ongoing sex discrimination, sexual harassment, or sexual violence. The school can issue a no-contact directive under Title IX to prevent the accused student from approaching or interacting with the complainant. Schools must ensure that any reasonable changes to housing, classes, or sports schedules, campus jobs, or extracurricular activities, and clubs are made to ensure the complainant can continue their education free from ongoing sex discrimination, sexual harassment, or sexual violence. Additionally, these accommodations should not overburden the complainant or limit their educational opportunities; instead, schools can require the accused to likewise change some school activities or classes to ensure there is not an on-going hostile educational environment.



In cases of sexual violence, the school is prohibited from encouraging mediation rather than a formal hearing of the complaint.

Important Note

Title IX uses the terms complainant and respondent instead of victim, survivor, or suspect. This is due to the fact that a sexual assault is considered a violation under federal civil rights law or Title IX. Please refer to U.S. Department of Education Office for Civil Rights for more information.

B. The Clery Act

The Clery Act was named after Jeanne Clery, who was raped and murdered in her dorm room by a fellow student on April 5, 1986. Her parents championed the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act) in her memory. This Act is federal law that requires colleges and universities to report crimes that occur within a defined geography. This information is available each year in an Annual Security Report (ASR).

The Clery Act requires a list of educational resources (such as medical care, mental health resources, and other support options that are available either on campus or within the local community) to be made available to students on or around campus. The Act also requires publication of reported

incidents of a specific crime while alerting the public to possible safety risks or incidents on campus.

C. Violence Against Women Act: The Campus SaVE Act

The Campus Sexual Violence Elimination (SaVE) Act increases transparency on campus of incidents of sexual violence, guarantees victims' enhanced rights, emphasizes disciplinary proceedings, and requires campus-wide prevention education programs.

The Campus SaVE Act amends the Clery Act, which requires campuses to provide annual statistics on incidents of campus crimes, including sexual assaults occurring on campus and reported to campus authorities or local police. The Act broadens this requirement to mandate fuller reporting of sexual violence to include incidents of domestic violence, dating violence, and stalking.

Colleges must publish the following victims' rights and college responsibilities:

- information on obtaining orders of protection, no-contact orders, and victim notification.
- information on how the college will protect the confidentiality of the victim.
- written notification of available services for mental health, victim advocacy, legal assistance, and other available community resources.

Suggestions for Faculty/Staff

- a. Believe what the student tells you
- b. Be a patient, active listener
- c. Reassure the student that they are not alone and that what happened is not okay
- d. Don't try to make decisions for the student
- e. Offer information on available resources
- f. Offer support
- g. Educate yourself

- written notification about victims' right to change academic, living, transportation, or work situations even if they do not formally report; and
- written explanation of a student or employee's rights and options, regardless of whether the crime took place on campus or off campus.

Colleges must publish the following procedures for reporting sexual violence:

- information on how to preserve evidence of the crime
- information on to whom and how to formally report the incident.
- the right to decline formally reporting to authorities, including law enforcement agencies.
- the Campus SaVE Act must provide prompt, fair, and impartial disciplinary proceedings that ensure equitable process to both parties.
- officials conducting disciplinary proceedings must be trained annually on sexual violence investigation and determinations.
- both the accuser and the accused have a right to have an adviser of their choice present during the disciplinary process.
- both the accuser and accused are required to receive the final results of a disciplinary proceeding in writing; and
- both the accuser and accused have a right to appeal disciplinary proceeding decisions or changes to the final result.

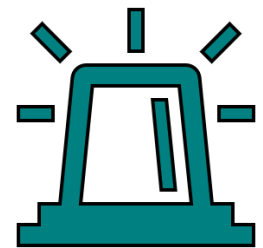
D. Sexual Assault Victim Services

Every campus plan to address sexual assault must include a strategy for delivering and coordinating a continuum of services to address victim needs. The plan should identify an individual or group on campus to oversee the victim services delivery system and conduct regular reviews of effectiveness. At a minimum, the victim services plan must ensure that:

- victims have access to services provided by people with expertise in various aspects of sexual assault, including support for emotional, medical, and legal needs
- services for victims are available at all times, including non-business hours and academic breaks
- victims are informed about campus resources and community-based services (e.g., local sexual assault center) and their programs and services
- victims are assured that trained law enforcement or campus security officers are available and prepared to respond appropriately; and
- services are accessible and appropriate for all members of the community campus, including students, faculty, staff, minority groups, individuals with disabilities, lesbian/gay/bisexual/transgender/questioning/queer (LGBT+) campus community, non-traditional college students, commuting or parenting students, and on-campus friends of victims.

E. Campus Law Enforcement and Security

Campus law enforcement and security departments play a significant role in institutional responses to sexual assault. Their response to reports of sexual assault must be based on protocol, supported by training, and sensitive to victim needs.



Campus law enforcement and security departments must have a clear protocol for situations when the victim chooses not to officially report a crime. In such cases, authorities must be prepared to refer victims to appropriate support services and respect requests for confidentiality and anonymity.

To achieve these goals, every campus plan to address sexual assault must include first responder and investigation protocols for campus law enforcement or security departments

F. Protocols for Departments That Do Not Investigate Sexual Assault Reports

When the campus is not the primary investigative agency for sexual assault, administrators must implement a written policy and protocol establishing procedures for the following:

- notifying the appropriate investigative law enforcement agency.
- providing written information to the victim about contacting appropriate campus and community sexual assault support services.
- informing the victim about forensic medical examination services and how to access these services.

- interacting with other offices on campus such as judicial affairs, housing, student health center, counseling center, and campus ministries.
- complying with the federal Clery Act.
- confidentiality of the case as outlined by Title IX and the Office of Civil Rights; and
- following up with the victim.

G. Protocols for Departments That Investigate Sexual Assault Reports

Every campus with a law enforcement or security department with the responsibility for investigating reports of sexual assault must develop a protocol that includes the following:

- procedure for notifying and mobilizing all critical campus units in the event of a sexual assault.
- requirement to notify victims of the right to have an advocate or support person present during their interviews with law enforcement or Title IX Coordinator.
- procedure for contacting a qualified support person for the victim (e.g., a sexual assault victim advocate/counselor or other specially trained individual).
- procedure for connecting the victim with medical forensic evidence examination services if the victim desires.
- steps for complying with legal reporting requirements, including those mandated by the Clery Act.
- resource information for both on- and off-campus services providers for victims.
- policy for transporting the victim to off-campus offices (e.g., local law enforcement, medical forensic examination site, etc.).
- procedure for obtaining alternative living arrangements for the victim, if requested.
- procedure to ensure confidentiality as allowed by law.
- procedures for releasing information to the media and issuing timely warnings to the campus community, pursuant to confidentiality policies and the Clery Act.
- responsibilities of both on- and off-campus law enforcement agencies.
- procedures for working with the local District Attorney's office.
- protocol for working with victims who choose not to officially report an incident, but still wish to seek medical and/or emotional support services.
- training plan for relevant entities regarding the implementation of the protocol; and
- procedures for regularly evaluating and updating the protocol.

Incarcerated Victim Response

A. Sexual Assault in Detention

Sexual assault that occurs behind bars is a widespread crisis in prisons and jails across the country. Since 2007 the Bureau of Justice Statistics (BJS) has conducted a series of national surveys to determine the reported number of staff sexual misconduct and inmate-on-inmate non-consensual acts. The 2015 BJS survey report states that 24,661 allegations of sexual victimization were reported

to correctional administrators in prisons, jails, and other adult correctional facilities. The number of allegations increased 180% from the 2011 to 2015 report.²⁰

In another study, BJS found that one in twelve former jail inmates and one in eight former prison inmates who were sexually abused prior to their incarceration stated that they were sexually victimized by another inmate, highlighting the extreme risk to victims of previous abuse. Unfortunately, the BJS data still represents only a fraction of the true number of detainees who are victimized, especially those held in county jails. The number of admissions to local jails over the course of a year is approximately 17 times higher than the nation's jail population on any given day. The BJS surveyors were only able to cover a very small portion of jail detainees over an entire year.

Sexual assault in detention facilities mirrors that of the outside community. Inmates who are gay, transgender, young, mentally ill or incarcerated for the first time and for non-violent offenses tend to be victimized. Incarcerated victims of sexual assault experience the same emotional pain as other sexual assault victims. While there are services provided to victims in detention, incarcerated victims

have less access to supportive community resources, such as confidential counseling, often provided by community-based agencies. This absence of confidential counseling after the trauma of a sexual assault causes many victims to develop serious long-term problems like Post-Traumatic Stress Disorder (PTSD), depression, and alcohol and other drug additions. Moreover, the high rates of HIV and other sexually transmitted infections in detention place incarcerated victims at a greater risk for

Agency Protection Duties

§115.65 / §115.365

When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.

infection. Ninety-five percent of inmates return home upon release, bringing their emotional trauma and medical conditions back to their communities. Sexual assault in detention needs to be addressed not just by the corrections community, but by the community as a whole to ensure the safety and well-being of all inmates.

The Prison Rape Elimination Act (PREA) was signed into law in September of 2003 to address the problem of sexual assault of people in the custody of detention agencies. PREA applies to all correctional and detention facilities, including prisons, jails, juvenile facilities, military and Tribal facilities and Immigration and Customs Enforcement (ICE) facilities.

Major provisions of PREA include development of standards for detection, prevention, reduction, and punishment of prison rape; collection and dissemination of information on the incidence of prison rape; award grant funds to help state and local governments implement the purposes of the Act.

Coordinated Response

²⁰ U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics. (July 2018). Sexual Victimization Reported by Adult Correctional Authorities, 2012-15. <https://www.bjs.gov/content/pub/pdf/svraca1215.pdf>

§116.65/§115.365

The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

B. SART and Detention

A SART within a detention facility can provide support to the PREA Coordinator, ease staff discomfort with handling sexual assault disclosures, and serve as the core component of the facility's coordinated response. The SART should operate from a solid protocol, based on PREA standards. The protocol should be developed by a multidisciplinary team (representative of the staff, contractors, and volunteers who are tasked with responding to sexual assaults). One benefit of the SART is that, while all staff must know the basics of responding to sexual assault, SART members can become specialists – receiving both initial and on-going training in how to follow the SART protocol. Such expertise will further enhance the facility's ability to comply with PREA standards.

The coordinated response standard requires a written plan for handling incidents of sexual abuse. As such, it can be used to spell out the roles and responsibilities of the various SART members. The SART protocol can serve as the written coordinated response plan.

The SART will be integral in making sure that the facility's response policies are effective. For example, the SART protocol should describe:

- how to preserve evidence (§ 115.21/§ 115.321).
- the requirement that all sexual abuse allegations are referred for investigations (§ 115.22/§ 115.322).
- the multiple ways that an inmate can report (§ 115.51/§ 115.351); and
- how victims can reach out for outside, confidential support services (§ 115.53/§ 115.353).

The SART protocol is an important tool for defining staff duties, including all staff and agency reporting responsibilities, and first responder duties mandated under the standards. The facility may already have a sexual harassment policy and may have an agreement with the local sexual assault center in the community. The jail can build on these to meet the PREA standards. The facility must also have a policy against retaliation and the SART can verify that its implementation is consistent with PREA requirements.

C. SART Members

Depending upon the size and the number of facilities under an agency's authority, it may be effective to establish an agency-level SART composed of:

- the agency PREA Coordinator or designated Facility PREA Compliance Manager.
- facility director or designee.
- facility medical and mental health staff.
- a representative from the community based SART.

- a community-based sexual assault victim advocate.
- a law enforcement investigator.
- DJJ Investigator (PREA or designee).
- DJJ Office of Victim Services Advocate or Designee.
- a SANE; and
- a prosecutor.

This model reinforces the multidisciplinary team approach of the SART and improves services for the victim, both while incarcerated and post-incarceration, by extending the connection to care in the



community. The agency PREA Coordinator should coordinate the SART. When there is more than one facility, the PREA Coordinator should be involved in selecting SART members and work with the facility-level PREA Compliance Manager to supervise the team.



If a community's sexual assault center wishes to participate in a correctional facility SART, having a sexual assault victim advocate from that program can provide the facility the opportunity to include trained, community-based victim advocates in an immediate response to victims at the facility. The responsibilities of the facility and the victim advocacy program should be detailed in a MOU or within the SART protocol (§ 115.21/§ 115.321).



The SART should meet on a regular basis to evaluate the facility's PREA compliance, plan training, and review incidents. Meetings

might be held every other week at first and become monthly once solid systems are in place.

Muscogee County Jail utilizes internal medical and mental health providers. Inmates have access to The Center at 909's hotline (706.571.6010) to file a report or speak with an advocate as necessary. Counseling resources are also available for inmates through a local service provider while incarcerated.

D. Medical and Mental Health Care

The SART can be a way to build cooperation and communication between custody staff and the medical and mental health staff. It is important that the SART role in a response be clearly defined and that they receive training in how to preserve evidence until the victim is seen by a medical forensic examiner. Involvement of medical and mental health staff in the SART can also help a facility meet several of the standards related to medical and mental health care.

§ 115.81/§ 115.381 Screening History – medical and mental health staff work with classification staff to identify and help inmates who need services or who might be at risk for abuse.

§ 115.82/§ 115.382 Acute Care – Victims receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Victims are also offered timely information about access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate.

§ 115.83/§ 115.383 Ongoing Care – SART protocols clearly outline how victims will receive emergency and on-going care; medical and mental health staff work with the team to make sure all needed services are provided, and care improves both the well-being of the victim and the victim's ability to participate in any investigation.

Victim Specific or Cultural Considerations²¹

The victim specific or cultural consideration section is designed to help SART members understand victims from diverse cultures to ensure all victims are served with respect regardless of their background. This section is intended to be a tool to help professionals; however, it is the responsibility of each SART member to integrate cultural sensitivity into their services for victims. It is hoped that SARTs will utilize these considerations to increase their understanding of diversity and learn ways to serve victims with respect to their cultural background and identities.

A. General Considerations for All Victims

Regardless of how openly sexual violence is discussed within communities, rape and sexual violence are not a cultural practice or culturally accepted for any culture.

Many communities do not use eye contact when in conversation with others; this is a cultural practice of respect for elders/adults and should not be considered a form of disrespect or not paying attention. Many communities will nod their head in respect with the intention of "I hear you." Many times, nodding one's head is misinterpreted as "you are agreeing with me" or "you understand me." Therefore, be sure to ask for a verbal response before making decisions. Not all females will shake hands with someone of the opposite sex. In some cultures, neither females nor males will shake hands.

Family and community are important across cultures. Some victims will avoid telling family what has occurred or avoid reporting to law enforcement as they do not want to be shamed or bring shame upon the family.

Regardless of age or the cultural community the victim belongs to, these factors do not imply that service providers should talk to them in slower English or louder, as this minimizes one's abilities and intelligence. Avoid stereotyping and making assumptions about identity, appearances, race, class, age, or disabilities.

Many victims and families have trust in the legal system. When a victim chooses to report, there is an implication that the case will be charged. When cases are not charged or prosecuted, victims may be re-victimized by their community for what appears to be lying about the incident.

If a victim states she/he is sexually active, do not assume she/he is referring to heterosexual sex.

Be aware that when victims go to a clinic or hospital, the perpetrator may accompany her/him. Regardless of whom the victim says she/he is with (friend, partner, brother, etc.), the professional should see her/him alone. When the victim is separated from the person she/he came in with, it may be helpful to ask, "are you comfortable with that person being here?" This type of question may open communication about unsafe situations.

Attempt to find out who financially supports the family. If the perpetrator is a family member or sole provider, losing financial support may deter the victim from reporting. When using an interpreter, pay

²¹ "Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault." *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

attention to what the interpreter says and watch body language. Not all interpreters relay the correct information, and some may add their own opinions while interpreting, which is unacceptable. Always use a trained and qualified interpreter. Never use family members, care givers, or children as interpreters.

Faith Considerations

Sexual assault can affect survivors on a spiritual level as well as physically and psychologically. Faith is a significant source of comfort and support for some individuals, especially during a time of crisis. They may have an established, trusted relationship with a spiritual advisor that allows them to share information they would not disclose to others. Religious traditions and spiritual beliefs can also provide important avenues for empowerment and healing after a crisis, enabling faith communities to be powerful partners in the response to sexual violence.

General Considerations

A survivor's experience with cultural or religious norms may affect how they interact with authority figures. Some victims may feel more comfortable sharing information with a female, and in certain cultures, it may be unacceptable for individuals to be alone with members of the opposite gender.

Considerations for Communities of Faith

Sexual violence can be a sensitive topic to discuss for faith leaders and may even be considered taboo. Without training in sexual assault response, faith leaders may wonder which subjects are appropriate to speak about with members of their community and survivors. Being informed, compassionate, and nonjudgmental will create an atmosphere in which open dialogue can occur. Normalizing discussion of sexual violence makes it more likely that survivors will feel comfortable to come forward. Faith leaders should not assume that broaching this topic will be received as offensive.

Communities of faith may sometimes desire to address a sexual assault disclosure internally. However, this keeps survivors from accessing eligible resources and services outside their faith community that can be beneficial. In addition, faith leaders may misinterpret the law and consequently prevent, delay, or otherwise affect the criminal justice process. Without a clear understanding of legal statutes, faith leaders may be unsure of what to say or worry that their actions may taint a criminal investigation when a disclosure occurs.

Knowledge of the dynamics of sexual violence coupled with prior preparation for the possibility of member disclosure can help faith leaders and staff feel more confident when it happens. Consider requesting that a local sexual assault center provide a training for faith leadership or for all members to learn safe and appropriate ways to respond to a disclosure. This will also decrease the likelihood of unintentionally contributing to a survivor's suffering by using harmful or blaming language. It is never appropriate to utilize a survivor's faith or religious teachings to dismiss, condone, or hide sexual assault.

The following are things faith leaders can do to support a person who is sharing their experience:

- Encourage the survivor to speak openly and share as much or as little as they feel comfortable doing

- Be aware of their own body language, facial expressions, and tone of voice
- State that the assault was not the survivor's fault, and they did nothing wrong
- Be patient and do not press for more details or information than the person is ready to disclose
- Reassure them that it was the right decision to disclose what happened
- Refrain from encouraging forgiveness or providing advice; initially, allow them to just tell their story
- Be unafraid to say you do not know or do not fully understand the survivor's experience
- Help the person consider options and let them decide what to do next

Faith leaders should adhere to a high level of confidentiality to demonstrate respect for and establish trust with a survivor. However, mandated reporting requirements can sometimes limit a leader's ability to keep information confidential. Mandated reporters are required by law to report any suspected abuse or neglect of a minor to child protective authorities. If the survivor is under the age of 18, the faith leader is a mandated reporter per Georgia law. It is important to be truthful and explain this to the disclosing individual.

It is common for someone to report a sexual assault experience after a period of time has passed. Some survivors may wait years before an initial disclosure. This can be for many reasons, including feelings of fear, shame, or guilt. Delayed reporting should be met with the same level of empathy, concern and support that would be provided at any other time. It is not appropriate to question or judge when a survivor decides to disclose their trauma, but rather, encourage them by explaining that healing is a process and looks different for everyone.

Faith communities can play a vital role in a survivor's well-being by offering support and pointing them to available, appropriate resources. Some may offer their own internal mental or emotional health services, such as pastoral counseling. It is important to note that religious norms and inadequate training in this field can potentially obstruct a survivor's path to healing. Faith leaders should become familiar with community-based resources for survivors of sexual abuse in their area.

Some survivors may decline any offers of assistance, while others may need multiple resources to continue their healing. Faith leaders should present options and allow each survivor to decide what is best for them. Some might include:

- A list of licensed mental health counselors in the area who share their faith
- The names and numbers of local sexual assault centers
- Asking if you may pray for them

Respecting the wishes and decisions of the survivor is, above all, the most effective way to support them as they navigate this difficult time in their life and begin a path to healing.

Law Enforcement Considerations

Faith-based institutions provide guidance and resources to members of all ages and backgrounds, and they can act as an important support system for survivors of sexual violence. A survivor's close relationship with a faith leader may allow them to feel more comfortable discussing information with law enforcement officials, and a faith leader's understanding of the survivor's religious worldview can help law enforcement better understand the individual.

The following are potential ways to inquire about the topic of faith with a survivor:

- “Are you a person of faith?”
- “Do you belong to a particular faith?”

Strong relationships with faith-based organizations allow both law enforcement and the faith community to respond more effectively to survivors. Faith-based communities are more likely to collaborate with law enforcement when they have a strong pre-existing relationship with each other. To establish a new relationship with a faith community, law enforcement can offer to facilitate trainings for their leadership teams, or to assist in the development of policies and procedures to support members who disclose sexual assault. In return, faith leaders can help law enforcement learn more about the values and priorities of their faith tradition so that investigators are well-informed about the needs and principles of their community residents.

Appendix A

Georgia's Crime Victims' Bill of Rights: O.C.G.A. § 17-17-1

A. Victims Have the Right:

- To be treated fairly and with dignity by all criminal justice agencies involved in the case
- To proceedings free from unreasonable delay
- To be notified of the availability of victim's compensation, which is available under the Georgia Crime Victims Compensation Program at (800)547.0060 or www.cjcc.ga.gov
- To be notified of the Georgia Crime Victims Bill of Rights
- To be notified of community-based victim service programs
- To reasonable, accurate and timely notice of the following:
 - a. An arrest warrant being issued for the accused
 - b. The accused's arrest
 - c. The condition that the accused is prohibited from contacting the victim
 - d. The accused's release or escape from custody
 - e. Any court proceeding where the release of the accused will be considered
 - f. Any scheduled court proceedings or any changes to such proceedings, including restitution hearings
 - g. The accused's release on an electronic release and/or monitoring program
- To be present at all criminal proceedings in which the accused has the right to be present
- To NOT be excluded from any scheduled court proceedings, except as provided in O.C.G.A. § 17-17-1 or otherwise provided by law
- To a waiting area, during judicial proceedings, that is separate from the accused and his or her relatives, friends, and witnesses
- To be reasonably heard at any scheduled court proceedings involving the release, plea or sentencing of the accused
- To complete a Victim Impact Statement and have it presented to the court prior to the trial or plea of the accused (O.C.G.A. 17-10-1.1)
- To restitution as provided by law
- To refuse to submit to an interview by the accused, accused's attorney, or agent of the accused
- To a requirement by court that defense counsel not disclose victim information to the accused (17-17-10)
- To be notified by the Department of Behavioral Health and Developmental Disabilities (DBHDD) if the accused is committed to the DBHDD for an evaluation, as mentally incompetent to stand trial or as not guilty by reason of insanity at the time of the crime. Upon the written request of the victim, at least ten days before the release or discharge, the department shall mail notice to the victim of the accused release from such facility.
- To request not to receive any form of written, text, or electronic communication from an inmate who was convicted of a criminal offense against the victim
- To be advised on how to file a complaint with the Judicial Qualification Commission if a judge denies the victim's right to be heard

B. Victim's Responsibility

Victims must provide to the law enforcement agency, prosecuting attorney, and custodial authority a current address and telephone number to be notified of specific actions in a criminal case against the accused.

- It is the right and the responsibility of the victim who desires notification under this chapter or any other notification statute to keep the following informed of the victims' current address and phone number:
 - a. The investigating law enforcement agency
 - b. The prosecuting attorney
 - c. The Department of Corrections (if the accused is in the custody of the state) or any county correctional facility
 - d. The State Board of Pardons and Paroles
- The victim has the option to waive any of the information or notification or other obligations specified under the Crime Victims Bill of Rights.
- A victim has the right to designate a spouse, adult child, parent, sibling, or grandparent to act on behalf of him or her, when the victim is physically unable to personally assume the rights under the law.
- If the victim has been trafficked for labor or sexual servitude (as defined in **Code Section 16-5-46**), they have the right to be notified of the availability of compensation through the federal government pursuant to **22 U.S.C. Section 7105**.

C. Law Enforcement

Upon initial contact with a victim, all law enforcement and court personnel shall make available to the victim the following information written in plain language:

- The possibility of pretrial release of the accused
- The victim's rights and role in the stages of the criminal justice process
- The means by which additional information about these stages can be obtained
- The availability of victim compensation, which is available under the Georgia Crime Victims Compensation Program at 800.547.0060, cjcc.ga.gov, or crimevictimscomp.ga.gov
- The availability of community-based victim services programs

Whenever possible, the investigating law enforcement agency shall give to a victim prompt notification as defined in paragraph (9) of Code Section 17-17-3 of the arrest of the accused.

Whenever possible, the custodial authority shall give prompt notification to a victim of the release of the accused.

D. Prosecution

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.

Victims have the right to confer with the prosecuting attorney in any criminal prosecution related to the victim.

The prosecuting attorney shall offer the victim the opportunity to express the victim's opinion on the disposition of an accused's case, including the view of the victim regarding:

- Plea or sentence negotiations
- Participation in pretrial or post-conviction diversion programs.

Victims have the right to notification, by the prosecuting attorney, of the procedural steps in processing a criminal case including the right to restitution, the rights and procedures of victims under the law, and suggested procedures if the victim is subjected to threats or intimidation.

Upon the written request of the victim, the prosecuting attorney shall notify the victim of the following:

- That the accused has filed a motion for new trial, an appeal of his or her conviction, or an extraordinary motion for new trial.
- Whether the accused has been released on bail or other recognizance pending the disposition of the motion or appeal.
- The time and place of any appellate court proceedings relating to the motion or appeal and any changes in the time or place of those proceedings; and
- The result of the motion or the appeal.

E. Department of Corrections

Whenever possible, the custodial authority shall give prompt notification to a victim of the accused's release from custody of the state or any county correctional facility.

Whenever practical, the custodial authority shall provide notification to a victim of an escape by the accused and his or her subsequent re-arrest.

The Department of Corrections shall provide, to the prosecuting attorneys, the procedures a victim shall follow in order to block inmate mail. If a victim submits a request to block inmate mail, the Department of Corrections shall notify the custodial authority and notify the inmate of sanctions if direct or third-party contact of the victim is made.

F. State Board of Pardons and Paroles

If a victim has expressed objection to the release of the accused or has expressed a desire to be notified, they must provide the State Board of Pardons and Paroles with a current address and telephone number.

Upon notification by the victim to the State Board of Pardons and Paroles, of their desire to be notified, the State Board of Pardons and Paroles shall give 20 days advance notification to a victim, whenever it considers making a final decision to grant parole or any other manner of executive clemency action to release a defendant for a period exceeding 60 days.

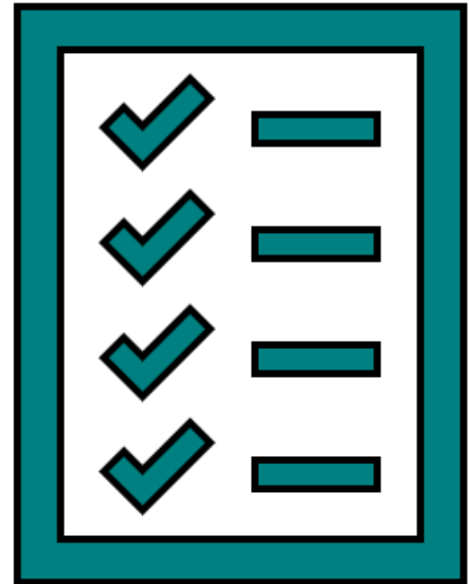
The board shall provide the victim with an opportunity to file a written objection in any parole proceedings involving the accused.

Appendix B

Sexual Assault Protocol Roles and Responsibilities Checklist

A. Emergency dispatcher:

- Quickly obtain the victim's name and location
- Ascertain the safety of the victim; activate emergency medical services as needed
- Dispatch appropriate law enforcement units
- Maintain an open line with the victim
- Keep victim calm; advise that help is on the way
- If possible, encourage victim not to wash, change clothes, disturb crime scene, etc. until forensic exam can be completed
- 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 evidence
- Dispatch The Center at 909 Victim Advocate 706.571.6010



B. Responding Law Enforcement Officer:

- Determine if there is a threat to victim's safety and if it is specific and observable
- Determine victim's physical/medical needs; request emergency care if needed
- Calm and reassure victim
- Inform victim of actions being taken; keep victim informed of investigative process
- Preserve evidence/secure scene(s)
- Determine if offender is known and possible location
- Activate SART – Officer, SANE, Advocate (brief all responders as needed)
- Request forensic/ID unit as necessary
- If victim is a juvenile, follow referral guidelines listed under the CAC Protocol
- If adult victim falls under mandated reporting, contact Adult Protective Services, inform 911 communication center immediately
- Conduct initial victim statement, with advocate present, if victim consents
- Obtain necessary consent forms from victim and witnesses
- Determine need for search warrant and execute search warrant as needed
- Conduct witness interviews including disclosure witnesses
- Conduct initial suspect interview to obtain statement.
- Ensure all preliminary field reports are forwarded to the investigative unit for review

C. SART Collaborative Protocol Checklist:

- Officer, Advocate, SANE will work together to determine safety needs of victim
- Officer, Advocate, SANE will work together to determine special needs of victim
- Officer, Advocate, SANE will work together to provide victim with information on Victim's Rights and Victim Compensation
- Officer will conduct initial victim statement with Advocate present if victim consents
- SANE will conduct forensic history with Officer and/or Advocate present if victim consents
- Officer will leave the room for medical history and forensic examination
- Officer will conduct victim interview with advocate present if victim consents

D. Case Report Checklist

- Primary Officer's incident report
- Supplemental reports filed by assisting officers
- Crime scene entry log
- Written statement of the victim
- Copy of recorded statement of the victim
- Statements of witnesses
- Copies of recorded statements of witnesses
- Primary investigator's case activity log
- Primary investigator's case summary
- Wanted poster/composite drawings
- Photographic line-ups; admonitions
- Reports of anonymous crime information from sources such as Crime Stoppers, etc.
- Statements of suspect; non-custodial
- Statements of suspect to arresting officers
- Statements of suspect to civilians
- Constitutional rights; Miranda law
- All of suspect's custodial statements to law enforcement
- Copies of all recorded suspect statements
- Diagram of crime scene
- Photos of victim(s)
- Photos of crime scene(s)
- Property and evidence forms
- List of property in police custody
- List of property sent to crime lab
- NCIC criminal history
- Juvenile history data
- Probation/parole data
- Booking photo/Mug shot of suspect
- Previous reports in suspect's name
- Reports on Address call history
- 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

E. Victim Advocate Roles and Responsibilities Checklist:

- Determine whether the victim is safe (both physically and emotionally) and provide safety planning if needed
- Determine the immediate medical care needs of the victim and whether the victim wants to go to the hospital or another medical provider for STI/pregnancy care
- Assess and accommodate the special needs of the victim, including but not limited to language or cultural barriers, physical, mental, age, gender, rural, etc.
- Provide crisis intervention, support, information and referrals to the victim and family/friends
- Provide non-judgmental information about options
- Determine whether the victim wants to report the assault
- If not reporting, provide information on the evidence collection timeline and how it affects the victim's future options
- If reporting, contact law enforcement or follow SART protocol
- Provide transportation to medical facility for medical evaluation if necessary
- Inform victim of preserving options through evidence collection and evaluation
- Assess whether victim has need of clothing/food/shelter/transportation
- Access services and resources for victim or assist them in accessing services and resources as needed
- Accompany, support, and provide information throughout all aspects of the process
- Provide continuing follow-up care after the initial response by regularly checking-in with victim on their needs, concerns, comfort, and questions
- Ensure the victim understands the systems in which they find themselves, including the roles and objectives of each agency and individual involved in the response
- Serve as a liaison between the victim and professional agencies
- Advocate on behalf of the victim's self-defined needs, decisions, wishes, questions/concerns
- Provide support, information, and referrals to family/friends of the victim
- Provide accompaniment when requested (FME, courtroom, etc.)

F. Prosecutors' Roles and Responsibilities Checklist

- Evaluate the case for prosecution, considering all the merits and seriousness of the case as well as the interests of justice, needs of the victim, and community safety
- Ensure a collaborative and thorough investigation of the facts and circumstances of the case
- Hold perpetrators of sexual assaults accountable for their crimes
- Provide a victim-centered response
- Encourage the use of the term “victim” by judges rather than “accuser”
- Encourage specialization for SA prosecutors and facilitate vertical prosecution (one prosecutor from beginning to end)
- Increase the knowledge and expertise of all attorneys who prosecute SA cases in the dynamics of sexual assault and the laws
- Take the victim’s input into account throughout the process
- Meet with the victim in-person to both evaluate the case and to share information
- Work in a coordinated and collaborative fashion with law enforcement, medical personnel, and crime lab
- Evaluate cases submitted by law enforcement
- Inform victims of the case status from the time of the initial charging decision to sentencing
- Discourage case continuances
- Explain the reasons for continuances and seek mutually agreeable dates for hearings that are scheduled
- Arrange for interpreting services for victims and witnesses when necessary to assist a victim in understanding questions and frame answers
- Bring to the attention of the court the views of the victim on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution
- Pursue to the fullest extent that the law allows, those defendants who harass, threaten, or otherwise attempt to intimidate or retaliate against victims or witnesses
- Arrange for the prompt return of the victim’s property if it is no longer needed as evidence in court
- Seek no-contact orders as conditions of bail or own recognizance releases
- Include the victim whenever possible in decisions regarding the filing of the case, the reduction of charges, plea bargain offers, dismissal or other possible case dispositions
- Consult with law enforcement, medical personnel, and sexual assault victim advocates in the furtherance of the prosecution of the case
- Notify the victim of her/his rights regarding HIV testing of the defendant
- Refer the victim to advocates for information regarding crime compensation from the state
- Advise the victim of her/his right to have a support person and advocate present during interviews and in court
- Discuss the case with the forensic medical examiner and law enforcement prior to trial date

Appendix C

Georgia Mandatory Reporting Laws

O.C.G.A. §31-7-9 Reports by physicians and other personnel of nonaccidental injuries to patients; immunity from liability

(a) As used in this Code section, the term "medical facility" includes, without being limited to, an ambulatory surgical treatment center defined in subparagraph (C) of paragraph (4) of Code Section 31-7-1 and a freestanding imaging center defined in subparagraph (G) of paragraph (4) of Code Section 31-7-1.

(b) Any:

(1) Physician, including any doctor of medicine licensed to practice under the laws of this state;

(2) Licensed registered nurse employed by a medical facility;

(3) Security personnel employed by a medical facility; or

(4) Other personnel employed by a medical facility whose employment duties involve the care and treatment of patients therein

having cause to believe that a patient has had physical injury or injuries inflicted upon him other than by accidental means shall report or cause reports to be made in accordance with this Code section.

(c) An oral report shall be made immediately by telephone or otherwise and shall be followed by a report in writing, if requested, to the person in charge of the medical facility or his designated delegate. The person in charge of the medical facility or his designated delegate shall then notify the local law enforcement agency having primary jurisdiction in the area in which the medical facility is located of the contents of the report. The report shall contain the name and address of the patient, the nature and extent of the patient's injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

(d) Any person or persons participating in the making of a report or causing a report to be made to the appropriate police authority pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section shall be in good faith.

History

Code 1933, § 88-1913, enacted by Ga. L. 1980, p. 1040, § 2; Ga. L. 1982, p. 1249, §§ 1, 2; Ga. L. 1985, p. 898, § 1; Ga. L. 2008, p. 12, § 2-13/SB 433.

O.C.G.A. §19-7-5 (Effective January 1, 2022) Reporting of child abuse; when mandated or authorized; content of report; to whom made; immunity from liability; report based upon privileged communication; penalty for failure to report; spiritual treatment for illnesses

(a) The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the

situation in an effort to prevent abuses, to protect and enhance the welfare of children, and to preserve family life wherever possible. This Code section shall be liberally construed so as to carry out the purposes thereof.

(b) As used in this Code section, the term:

(1) "Abandonment" means any conduct on the part of a parent, guardian, or legal custodian showing an intent to forgo parental duties or relinquish parental claims. Intent to forgo parental duties or relinquish parental claims may be evidenced by:

(A) Failure, for a period of at least six months, to communicate meaningfully with a child;

(B) Failure, for a period of at least six months, to maintain regular visitation with a child;

(C) Leaving a child with another person without provision for his or her support for a period of at least six months;

(D) Failure, for a period of at least six months, to participate in any court ordered plan or program designed to reunite a child with his or her parent, guardian, or legal custodian;

(E) Leaving a child without affording means of identifying such child or his or her parent, guardian, or legal custodian and:

(i) The identity of such child's parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and

(ii) A parent, guardian, or legal custodian has not come forward to claim such child within three months following the finding of such child;

(F) Being absent from the home of his or her child for a period of time that creates a substantial risk of serious harm to a child left in the home;

(G) Failure to respond, for a period of at least six months, to notice of child protective proceedings; or

(H) Any other conduct indicating an intent to forgo parental duties or relinquish parental claims.

(2) "Abortion" shall have the same meaning as set forth in Code Section 15-11-681.

(3) "Abused" means subjected to child abuse.

(4) "Child" means any person under 18 years of age.

(5) "Child abuse" means:

(A) Physical injury or death inflicted upon a child by a parent, guardian, legal custodian, or other person responsible for the care of such child by other than accidental means; provided, however, that physical forms of discipline may be used as long as there is no physical injury to the child;

(B) Neglect of a child by a parent, guardian, legal custodian, or other person responsible for the care of such child;

(C) Emotional abuse of a child;

(D) Sexual abuse or sexual exploitation of a child;

(E) Prenatal abuse of a child by a parent;

(F) An act or failure to act that presents an imminent risk of serious harm to the child's physical, mental, or emotional health; or

(G) Trafficking a child for labor servitude.

(6) "Child service organization personnel" means persons employed by or volunteering at a business or an organization, whether public, private, for profit, not for profit, or voluntary, that provides care, treatment, education, training, supervision, coaching, counseling, recreational programs, or shelter to children.

(7) "Clergy" means ministers, priests, rabbis, imams, or similar functionaries, by whatever name called, of a bona fide religious organization.

(8) "Emotional abuse" means acts or omissions by a parent, guardian, legal custodian, or other person responsible for the care of a child that cause any mental injury to such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment.

(9) "Labor servitude" means work or service of economic or financial value which is performed or provided by another individual and is induced or obtained by coercion or deception.

(10) "Legal custodian" means:

(A) A person to whom legal custody of a child has been given by order of a court; or

(B) A public or private agency or other private organization licensed or otherwise authorized by law to receive and provide care for a child to which legal custody of such child has been given by order of a court.

(11) "Neglect" means:

(A) The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child's physical, mental, or emotional health or morals;

(B) The failure to provide a child with adequate supervision necessary for such child's well-being; or

(C) The abandonment of a child by his or her parent, guardian, or legal custodian.

(12) "Person responsible for the care of a child" means:

(A) An adult member of a child's household;

(B) A person exercising supervision over a child for any part of the 24 hour day; or

(C) Any adult who, based on his or her relationship to the parent, guardian, or legal custodian or a member of a child's household, has access to such child.

(13) "Pregnancy resource center" means an organization or facility that:

(A) Provides pregnancy counseling or information as its primary purpose, either for a fee or as a free service;

(B) Does not provide or refer for abortions;

(C) Does not provide or refer for FDA approved contraceptive drugs or devices; and

(D) Is not licensed or certified by the state or federal government to provide medical or health care services and is not otherwise bound to follow the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or federal laws relating to patient confidentiality.

(14) "Prenatal abuse" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in Code Section 16-13-21, which results in:

(A) Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the result of medical treatment; or

(B) Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.

(15) "Reproductive health care facility" means any office, clinic, or any other physical location that provides abortions, abortion counseling, abortion referrals, or gynecological care and services.

(16) "School" means any public or private pre-kindergarten, elementary school, secondary school, technical school, vocational school, college, university, or institution of postsecondary education.

(17) "Sexual abuse" means a person's employing, using, persuading, inducing, enticing, or coercing any minor who is not such person's spouse to engage in any act which involves:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;

(H) Defecation or urination for the purpose of sexual stimulation;

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure; or

(J) Any act described by subsection (c) of Code Section 16-5-46.

Sexual abuse shall include consensual sex acts when the sex acts are between minors if any individual is less than 14 years of age; provided, however, that it shall not include consensual sex acts when the sex acts are between a minor and an adult who is not more than four years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.

(18) "Sexual exploitation" means conduct by any person who allows, permits, encourages, or requires a child to engage in:

(A) Sexual servitude, as defined in Code Section 16-5-46; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, as defined in Code Section 16-12-100.

(c) (1) The following persons having reasonable cause to believe that suspected child abuse has occurred shall report or cause reports of such abuse to be made as provided in this Code section:

(A) Physicians licensed to practice medicine, physician assistants, interns, or residents;

(B) Hospital or medical personnel;

(C) Dentists;

(D) Licensed psychologists and persons participating in internships to obtain licensing pursuant to Chapter 39 of Title 43;

(E) Podiatrists;

(F) Registered professional nurses or licensed practical nurses licensed pursuant to Chapter 26 of Title 43 or nurse's aides;

(G) Professional counselors, social workers, or marriage and family therapists licensed pursuant to Chapter 10A of Title 43;

(H) School teachers;

(I) School administrators;

(J) School counselors, visiting teachers, school social workers, or school psychologists certified pursuant to Chapter 2 of Title 20;

(K) Child welfare agency personnel, as such agency is defined in Code Section 49-5-12;

(L) Child-counseling personnel;

(M) Child service organization personnel;

(N) Law enforcement personnel; or

(O) Reproductive health care facility or pregnancy resource center personnel and volunteers.

(2) If a person is required to report child abuse pursuant to this subsection because such person attends to a child pursuant to such person's duties as an employee of or volunteer at a hospital, school, social agency, or similar facility, such person shall notify the person in charge of such hospital, school, agency,

or facility, or the designated delegate thereof, and the person so notified shall report or cause a report to be made in accordance with this Code section. An employee or volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection. Under no circumstances shall any person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, to whom such notification has been made exercise any control, restraint, or modification or make any other change to the information provided by the reporter, although each of the aforementioned persons may be consulted prior to the making of a report and may provide any additional, relevant, and necessary information when making the report.

(3) When a person identified in paragraph (1) of this subsection has reasonable cause to believe that child abuse has occurred involving a person who attends to a child pursuant to such person's duties as an employee of or volunteer at a hospital, school, social agency, or similar facility, the person who received such information shall notify the person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, and the person so notified shall report or cause a report to be made in accordance with this Code section. An employee or volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection. Under no circumstances shall any person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, to whom such notification has been made exercise any control, restraint, or modification or make any other change to the information provided by the reporter, although each of the aforementioned persons may be consulted prior to the making of a report and may provide any additional, relevant, and necessary information when making the report.

(d) Any other person, other than one specified in subsection (c) of this Code section, who has reasonable cause to believe that suspected child abuse has occurred may report or cause reports to be made as provided in this Code section.

(e) (1) As used in the subsection, the term:

(A) "Active duty" means full-time duty status.

(B) "Armed forces of the United States" or "military" means the United States Army, United States Navy, United States Marine Corps, United States Coast Guard, United States Air Force, United States National Guard, Georgia Army National Guard, or Georgia Air National Guard, or a reserve component thereof.

(C) "Family advocacy program" means, for the particular branch, the program established by the military for the prevention, education, prompt reporting, investigation, intervention, or treatment of spouse or child abuse.

(D) "Military law enforcement" means, for the particular branch, the police corps, division, branch, agency, or authority of the military responsible for law enforcement or force protection.

(2) With respect to reporting required by subsection (c) of this Code section, an oral report by telephone or other oral communication or a written report by electronic submission or facsimile shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe that suspected child abuse has occurred. When a report is being made by electronic submission or facsimile to the Division of Family and Children Services of the Department of Human Services, it shall be done in the manner specified by the division. Oral reports shall be followed by a later report in writing, if requested, to a child welfare agency providing protective services, as designated by the Division of

Family and Children Services of the Department of Human Services, or, in the absence of such agency, to an appropriate police authority or district attorney. Such report shall be provided to military law enforcement, if applicable. If a report of child abuse is made to the child welfare agency or independently discovered by the agency, and the agency has reasonable cause to believe such report is true or the report contains any allegation or evidence of child abuse, then the agency shall immediately notify the appropriate police authority or district attorney and notify military law enforcement, if applicable. Such reports shall contain the names and addresses of the child and the child's parents or caretakers, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator. Photographs of the child's injuries to be used as documentation in support of allegations by hospital employees or volunteers, physicians, law enforcement personnel, school officials, or employees or volunteers of legally mandated public or private child protective agencies may be taken without the permission of the child's parent or guardian. Such photographs shall be made available as soon as possible to the chief welfare agency providing protective services, the appropriate police authority, and military law enforcement.

(3) For each child who is the subject of child abuse allegations, the child welfare agency as provided for in paragraph (1) of this subsection shall make efforts as soon as practicable to determine whether a parent or guardian of such child is on active duty in the armed forces of the United States. If such agency determines that a parent or guardian of such child is on active duty in the armed forces of the United States, such agency shall notify the applicable military installation's family advocacy program of the allegation of child abuse that relates to the parent or guardian of such child.

(f) Any person or persons, partnership, firm, corporation, association, hospital, or other entity participating in the making of a report or causing a report to be made, and individuals who otherwise provide information or assistance, including, but not limited to, medical evaluations or consultations, in connection with a report made to a child welfare agency providing protective services, an appropriate police authority, or military law enforcement pursuant to this Code section or any other law or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided that such participation pursuant to this Code section or any other law is made in good faith. Any person making a report, whether required by this Code section or not, shall be immune from liability as provided in this subsection.

(g) Suspected child abuse which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report child abuse reported solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about child abuse from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of child abuse from the confession of the perpetrator.

(h) Any person or official required by subsection (c) of this Code section to report a suspected case of child abuse who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

(i) A report of child abuse or information relating thereto and contained in such report, when provided to a law enforcement agency or district attorney pursuant to subsection (e) of this Code section or pursuant to Code Section 49-5-41, shall not be subject to public inspection under Article 4 of Chapter 18 of Title 50 even though such report or information is contained in or part of closed records compiled for law enforcement or prosecution purposes unless:

(1) There is a criminal or civil court proceeding which has been initiated based in whole or in part upon the facts regarding abuse which are alleged in the child abuse reports and the person or entity seeking to inspect such records provides clear and convincing evidence of such proceeding; or

(2) The superior court in the county in which is located the office of the law enforcement agency or district attorney which compiled the records containing such reports, after application for inspection and a hearing on the issue, shall permit inspection of such records by or release of information from such records to individuals or entities who are engaged in legitimate research for educational, scientific, or public purposes and who comply with the provisions of this paragraph. When those records are located in more than one county, the application may be made to the superior court of any one of such counties. A copy of any application authorized by this paragraph shall be served on the office of the law enforcement agency or district attorney which compiled the records containing such reports. In cases where the location of the records is unknown to the applicant, the application may be made to the Superior Court of Fulton County. The superior court to which an application is made shall not grant the application unless:

(A) The application includes a description of the proposed research project, including a specific statement of the information required, the purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;

(B) The applicant carries the burden of showing the legitimacy of the research project; and

(C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.

(j) The treatment of a child in good faith solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not in and of itself be considered child abuse.

History

Code 1933, § 74-111, enacted by Ga. L. 1965, p. 588, § 1; Ga. L. 1968, p. 1196, § 1; Ga. L. 1973, p. 309, § 1; Ga. L. 1974, p. 438, § 1; Ga. L. 1977, p. 242, §§ 1-3; Ga. L. 1978, p. 2059, §§ 1, 2; Ga. L. 1980, p. 921, § 1; Ga. L. 1981, p. 1034, §§ 1-3; Ga. L. 1988, p. 1624, § 1; Ga. L. 1990, p. 1761, § 1; Ga. L. 1993, p. 1695, §§ 1, 1.1; Ga. L. 1994, p. 97, § 19; Ga. L. 1999, p. 81, § 19; Ga. L. 2006, p. 485, § 1/SB 442; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2009, p. 733, § 1/SB 69; Ga. L. 2012, p. 899, § 5-1/HB 1176; Ga. L. 2013, p. 141, § 19/HB 79; Ga. L. 2013, p. 294, § 4-23/HB 242; Ga. L. 2013, p. 524, § 2-1/HB 78; Ga. L. 2015, p. 906, § 1/HB 268; Ga. L. 2016, p. 773, § 2/HB 905; Ga. L. 2017, p. 343, § 1/HB 86; Ga. L. 2017, p. 774, § 19/HB 323; Ga. L. 2019, p. 824, § 2/HB 64; Ga. L. 2019, p. 893, § 9/SB 225; Ga. L. 2021, p. 134, § 12/SB 28.

O.C.G.A. § 30-5-1 Protection of Disabled Adults and Elder Persons

§ 30-5-1 Short title

This chapter shall be known and may be cited as the "Disabled Adults and Elder Persons Protection Act."

History

Ga. L. 1981, p. 1320, § 1; Ga. L. 1997, p. 700, § 2.

§ 30-5-2 Legislative purpose

The purpose of this chapter is to provide protective services for abused, neglected, or exploited disabled adults and elder persons. It is not the purpose of this chapter to place restrictions upon the personal liberty of disabled adults or elder persons, but this chapter should be liberally construed to assure the availability of protective services to all disabled adults and elder persons in need of them.

History

Ga. L. 1981, p. 1320, § 2; Ga. L. 1997, p. 700, § 2.

§ 30-5-3 Definitions

As used in this chapter, the term:

(1) "Abuse" means the willful infliction of physical pain, physical injury, sexual abuse, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person.

(1.1) "Adult Abuse, Neglect, and Exploitation Multidisciplinary Team" means the multiagency team established in each judicial circuit in this state pursuant to Code Section 30-5-11.

(2) "Caretaker" means a person who has the responsibility for the care of a disabled adult or elder person as a result of family relationship, contract, voluntary assumption of that responsibility, or by operation of law.

(3) "Department" means the Department of Human Services.

(4) "Director" means the director of the Division of Aging Services of the Department of Human Services, or the director's designee.

(5) "Disabled adult" means a person 18 years of age or older who is not a resident, but who:

(A) Is mentally or physically incapacitated;

(B) Has Alzheimer's disease, as defined in Code Section 31-8-180; or

(C) Has dementia, as defined in Code Section 16-5-100.

(6) "Elder person" means a person 65 years of age or older who is not a resident.

(7) "Essential services" means social, medical, psychiatric, or legal services necessary to safeguard the disabled adult's or elder person's rights and resources and to maintain the physical and mental well-being of such person. These services shall include, but not be limited to, the provision of medical care

for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, and protection from health and safety hazards but shall not include the taking into physical custody of a disabled adult or elder person without that person's consent.

(8) "Exploitation" means the illegal or improper use of a disabled adult or elder person or that person's resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own or another's profit or advantage.

(9) "Fiduciary" shall have the same meaning as set forth in Code Section 7-1-4.

(10) "Financial institution" shall have the same meaning as set forth in Code Section 7-1-4.

(11) "Investment company" means an individual or a corporation, a partnership, a limited liability corporation, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated that:

(A) Is engaged or proposes to engage in the business of effecting transactions in securities;

(B) Is engaged or proposes to engage in the business of issuing securities, or has been engaged in such business and has any certificates outstanding; or

(C) Is engaged or holds itself out to be in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analysis or reports concerning securities.

(12) "Long-term care facility" shall have the same meaning as set forth in Code Section 31-8-81.

(13) "Mentally or physically incapacitated" means an impairment which substantially affects an individual's ability to:

(A) Provide personal protection;

(B) Provide necessities, including but not limited to food, shelter, clothing, medical, or other health care;

(C) Carry out the activities of daily living; or

(D) Manage his or her resources.

(14) "Neglect" means the absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a disabled adult or elder person.

(15) "Protective services" means services necessary to protect a disabled adult or elder person from abuse, neglect, or exploitation. Such services shall include, but not be limited to, evaluation of the need for services and mobilization of essential services on behalf of a disabled adult or elder person.

(16) "Resident" shall have the same meaning as set forth in Code Section 31-8-81.

(17) "Security" shall have the same meaning as set forth in Code Section 10-5-2.

(18) "Sexual abuse" means the coercion for the purpose of self-gratification by a guardian or other person supervising the welfare or having immediate charge, control, or custody of a disabled adult or

elder person to engage in any of the following conduct:

- (A) Lewd exhibition of the genitals or pubic area of any person;
- (B) Flagellation or torture by or upon a person who is unclothed or partially unclothed;
- (C) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is unclothed or partially clothed unless physical restraint is medically indicated;
- (D) Physical contact in an act of sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;
- (E) Defecation or urination for the purpose of sexual stimulation of the viewer; or
- (F) Penetration of the vagina or rectum by any object except when done as part of a recognized medical or nursing procedure.

History

Ga. L. 1981, p. 1320, § 3; Ga. L. 1997, p. 700, § 2; Ga. L. 2000, p. 136, § 30; Ga. L. 2005, p. 509, § 6/ HB 394; Ga. L. 2007, p. 219, § 1/ HB 233; Ga. L. 2009, p. 453, § 2-2/ HB 228; Ga. L. 2009, p. 725, § 1/ HB 457; Ga. L. 2013, p. 524, § 1-5/ HB 78; Ga. L. 2015, p. 598, § 1-6/ HB 72; Ga. L. 2018, p. 602, § 1/ HB 635.

§ 30-5-4 Reporting of need for protective services; manner and contents of report; immunity from civil or criminal liability; privileged communications

(a) (1) (A) The following persons having reasonable cause to believe that a disabled adult or elder person has been the victim of abuse, other than by accidental means, or has been neglected or exploited shall report or cause reports to be made in accordance with the provisions of this Code section:

- (i) Any person required to report child abuse as provided in subsection (c) of Code Section 19-7-5;
- (ii) Physical therapists;
- (iii) Occupational therapists;
- (iv) Day-care personnel;
- (v) Coroners;
- (vi) Medical examiners;
- (vii) Emergency medical services personnel, as such term is defined in Code Section 31-11-49;
- (viii) Any person who has been certified as an emergency medical technician, cardiac technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;
- (ix) Employees of a public or private agency engaged in professional health related services to elder persons or disabled adults; and
- (x) Clergy members.

(B) Any employee of a financial institution or investment company having reasonable cause to believe that a disabled adult or elder person has been exploited shall report or cause reports to be made in

accordance with the provisions of this Code section; provided, however, that this obligation shall not apply to any employee of a financial institution or investment company while that employee is acting as a fiduciary, but only for such assets that the employee is holding or managing in a fiduciary capacity.

(C) When the person having a reasonable cause to believe that a disabled adult or elder person is in need of protective services performs services as a member of the staff of a hospital, social agency, financial institution, or similar facility, such person shall notify the person in charge of the facility and such person or that person's designee shall report or cause reports to be made in accordance with the provisions of this Code section.

(2) Any other person having a reasonable cause to believe that a disabled adult or elder person is in need of protective services or has been the victim of abuse, neglect, or exploitation may report such information as provided in this Code section.

(b) (1) (A) A report that a disabled adult or elder person is in need of protective services or has been the victim of abuse, neglect, or exploitation shall be made to an adult protection agency providing protective services as designated by the department and to an appropriate law enforcement agency or prosecuting attorney. If a report of a disabled adult or elder person abuse, neglect, or exploitation is made to an adult protection agency or independently discovered by the agency, then the agency shall immediately make a reasonable determination based on available information as to whether the incident alleges actions by an individual, other than the disabled adult or elder person, that constitute a crime and include such information in their report. If a crime is suspected, the report shall immediately be forwarded to the appropriate law enforcement agency or prosecuting attorney. During an adult protection agency's investigation, it shall be under a continuing obligation to immediately report the discovery of any evidence that may constitute a crime.

(B) If the disabled adult or person is 65 years of age or older and is a resident, a report shall be made in accordance with Article 4 of Chapter 8 of Title 31. If a report made in accordance with the provisions of this Code section alleges that the abuse or exploitation occurred within a long-term care facility, such report shall be investigated in accordance with Articles 3 and 4 of Chapter 8 of Title 31.

(2) Reporting required by subparagraph (A) of paragraph (1) of this subsection may be made by oral or written communication. Such report shall include the name and address of the disabled adult or elder person and should include the name and address of the disabled adult's or elder person's caretaker, the age of the disabled adult or elder person, the nature and extent of the disabled adult's or elder person's injury or condition resulting from abuse, exploitation, or neglect, and other pertinent information.

(3) When a report of a disabled adult's or elder person's abuse, neglect, or exploitation is originally reported to a law enforcement agency, it shall be forwarded by such agency to the director or his or her designee within 24 hours of receipt.

(c) Anyone who makes a report pursuant to this chapter, who testifies in any judicial proceeding arising from the report, who provides protective services, who participates in a required investigation, or who participates on an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team under the provisions of this chapter shall be immune from any civil liability or criminal prosecution on account of such report or testimony or participation, unless such person acted in bad faith, with a malicious purpose, or was a party to such crime or fraud. Any financial institution or investment company, including without

limitation officers and directors thereof, that is an employer of anyone who makes a report pursuant to this chapter in his or her capacity as an employee, or who testifies in any judicial proceeding arising from a report made in his or her capacity as an employee, or who participates in a required investigation under the provisions of this chapter in his or her capacity as an employee, shall be immune from any civil liability or criminal prosecution on account of such report or testimony or participation of its employee, unless such financial institution or investment company knew or should have known that the employee acted in bad faith or with a malicious purpose and failed to take reasonable and available measures to prevent such employee from acting in bad faith or with a malicious purpose. The immunity described in this subsection shall apply not only with respect to the acts of making a report, testifying in a judicial proceeding arising from a report, providing protective services, or participating in a required investigation but also shall apply with respect to the content of the information communicated in such acts.

(d) Any suspected abuse, neglect, exploitation, or need for protective services which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse, neglect, exploitation, or need for protective services has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report such matters confided to him or her solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about abuse, neglect, exploitation, or the need for protective services from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of such matters from the confession of the perpetrator.

History

Ga. L. 1981, p. 1320, § 4; Ga. L. 1984, p. 785, § 1; Ga. L. 1992, p. 6, § 30; Ga. L. 1996, p. 1608, § 1; Ga. L. 1997, p. 700, § 2; Ga. L. 2000, p. 1085, § 6; Ga. L. 2013, p. 524, § 1-6/HB 78; Ga. L. 2015, p. 598, § 1-7/HB 72; Ga. L. 2018, p. 602, § 2/HB 635.

§ 30-5-4.1 Discrimination and retaliation for reporting prohibited

No person shall discriminate or retaliate in any manner against:

(1) Any person who makes a report pursuant to this chapter, who testifies in any judicial proceeding arising from the report, who provides protective services, who participates in an investigation, or who participates on an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team under the provisions of this chapter; or

(2) Any disabled adult or elder person who is the subject of a report.

History

Code 1981, § 30-5-4.1, enacted by Ga. L. 2020, p. 95, § 1/HB 987.

§ 30-5-5 Investigation of reports of need for protective services; interference with investigation; provision of protective services

(a) When the director receives a report that a disabled adult or elder person is in need of protective services, he or she shall conduct or have conducted a prompt and thorough investigation to determine whether the disabled adult or elder person is in need of protective services and what services are needed. The investigation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. Within ten days after receipt of the report, the director shall acknowledge receipt of the report, in writing, to the person making the report.

(b) Any person conducting an investigation required by this Code section who is unable to gain access to the disabled adult or elder person as a result of interference by another person may petition the court for an order authorizing the investigation and prohibiting interference therewith, which petition shall allege specific facts in support thereof. A hearing upon such petition and notice thereof shall be carried out pursuant to subsection (f) of this Code section. If as a result of the hearing the court finds probable cause to believe that the person named in the petition is a disabled adult in need of protective services or an elder person needing protective services and that any other person is interfering with the conduct of an investigation required under this Code section, the court may issue an order authorizing that investigation and prohibiting interference therewith by any person.

(c) If as a result of an investigation conducted under this chapter the director determines that a disabled adult or elder person is in need of protective services, the director shall immediately provide or arrange for protective services for any disabled adult or elder person who consents thereto.

(d) Any person providing protective services as authorized by subsection (c) of this Code section who determines that another person is interfering with the provision of such services may petition the court for an order authorizing such services and prohibiting interference therewith. Such petition shall allege specific facts in support thereof, including, but not limited to, the results of any investigation required to be made under this chapter. A hearing upon such petition and notice thereof shall be carried out pursuant to subsection (f) of this Code section. If as a result of the hearing the court finds by clear and convincing evidence that the person named in the petition is a disabled adult in need of protective services or an elder person needing protective services and that any other person is interfering with the provision of such services, the court may issue an order authorizing the provision of such services and prohibiting the interference therewith by any person.

(e) Protective services may not be provided under this chapter to any person who does not consent to such services or who, having consented, withdraws such consent. Nothing in this chapter shall prohibit the department from petitioning for the appointment of a guardian for a disabled adult or elder person pursuant to Chapters 4 and 5 of Title 29.

(f) A hearing on any petition filed under this Code section shall be held no sooner than five and no later than ten days after such petition is filed, unless a continuance is granted. At least three days prior to such hearing, notice thereof shall be served on the petitioner and notice and copy of the petition shall be served on the person alleged to be a disabled adult in need of protective services or an elder person needing protective services and on such person or persons named in the petition as interfering with the investigation or with the provision of protective services, as applicable. Notice shall be served either in person or by first-class mail. Any person willfully violating any order issued pursuant to this Code section shall be in contempt of the court issuing such order and may be punished accordingly by the judge of that court.

(g) The expenses of the court and the hearing officer for any hearing conducted under this Code section shall be the same as those provided in Code Section 37-3-122 and shall be paid as provided therein. A disabled adult or elder person shall be deemed to be a patient under Code Section 37-3-122 only for purposes of determining hearing expenses thereunder. Nothing in this Code section shall authorize the payment of attorney's fees for any hearing conducted under this Code section.

(h) Notwithstanding any other provisions of this Code section, if the director or adult protection agency employee receives a report or gains knowledge that a disabled adult or elder person is in need of protective services and such disabled adult or elder person may be in imminent danger resulting from abuse, exploitation, or neglect, the director or designee of the director may file a petition with the probate or superior court stating the grounds on which the director or designee of the director believes that the disabled adult or elder person may be in imminent danger and seeking immediate access to such person. The judge, in his or her discretion, may issue an ex parte order requiring the caretaker or any other person at the place where the disabled adult or elder person resides to afford an adult protection agency employee immediate access to such person to determine the person's well-being. If the adult protection agency employee is denied access to the disabled adult or elder person, the employee shall contact immediately a law enforcement officer to assist the employee in enforcing such order. Any person willfully violating any order issued pursuant to this subsection shall be in contempt of the court issuing such order and may be punished accordingly by the judge of the court. The adult protection agency employee shall conduct a brief investigation to determine the condition of the disabled adult or elder person.

(i) In any case in which the judge of the court is unable to hear a case brought under this chapter within the time required for such hearing, such judge shall appoint a person to serve and exercise all the jurisdiction of the court in such case. Any person so appointed shall be a member of the State Bar of Georgia and be otherwise qualified for his or her duties by training and experience. Such appointment may be made on a case-by-case basis or by making a standing appointment of one or more persons. Any person receiving such standing appointment shall serve at the pleasure of the judge making the appointment or said judge's successor in office to hear such cases if and when necessary. The compensation of a person so appointed shall be as agreed upon by the judge who makes the appointment and the person appointed, with the approval of the governing authority of the county for which such person is appointed, and shall be paid from the county funds of such county. All fees collected for the services of such appointed person shall be paid into the general funds of the county served.

(j) As used in this Code section, the term "court" means the probate court for the county of residence of the disabled adult or elder person or the county in which such person is found.

History

Ga. L. 1981, p. 1320, § 5; Ga. L. 1984, p. 785, § 2; Ga. L. 1985, p. 149, § 30; Ga. L. 1997, p. 700, § 2; Ga. L. 1999, p. 562, § 6; Ga. L. 2004, p. 161, § 6; Ga. L. 2005, p. 509, § 7/HB 394; Ga. L. 2013, p. 524, § 1-7/HB 78.

§ 30-5-6 Cooperation of other public agencies with director; power of director to contract for provision of medical evaluations; regulations

(a) The staff and physicians of local health departments, mental health clinics, and other public agencies shall cooperate fully with the director in the performance of the director's duties under this chapter.

(b) The director may contract with an agency or private physician for the purpose of providing immediate accessible medical evaluations in the location that the director deems most appropriate.

(c) The Board of Human Services shall adopt regulations to ensure the effective implementation of this chapter.

History

Ga. L. 1981, p. 1320, § 6; Ga. L. 1997, p. 700, § 2; Ga. L. 2009, p. 453, § 2-3/HB 228.

§ 30-5-7 Confidentiality of public records; reasonable access; redaction in certain circumstances

(a) All records pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the department shall be confidential; and access thereto by persons other than the department, the director, or the district attorney shall only be by valid subpoena or order of any court of competent jurisdiction.

(b) The following persons or agencies shall have reasonable access to such records concerning reports of elder, disabled adult, or resident abuse:

(1) A prosecuting attorney in this state or any other state or political subdivision thereof, or the United States, who may seek such access in connection with official duty;

(2) Police or any other law enforcement agency or law enforcement personnel of this state or any other state who are conducting an investigation into any criminal offense involving a report of known or suspected abuse, neglect, or exploitation of disabled adults or elder persons;

(3) Agencies participating in joint investigations at the request of and with the department, or conducting separate investigations of abuse, neglect, or exploitation within an agency's scope of authority, unless such records are wholly owned by the federal government; and

(4) Coroners or medical examiners in suspicious death investigations.

(c) Any individual who made a report according to Code Section 30-5-4 can make a request to the department to know if the report or reports made by that individual have been received, whether an investigation was opened or not, and whether the investigation is still open or has been closed, and the department will respond in writing within five business days with this information, but no other case information will be released.

(d) Any time that the record is released pursuant to this Code section, other than to law enforcement or to the district attorney or pursuant to a court order for unredacted records, the name and identifying information of the individual who made the report shall be redacted.

(e) Records or portions of records of abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the department may be released to members of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team established pursuant to Code Section 30-5-11 for reasonable use in furtherance of the purposes authorized in this Code section.

History

Ga. L. 1981, p. 1320, § 7; Ga. L. 1997, p. 700, § 2; Ga. L. 1999, p. 562, § 7; Ga. L. 2009, p. 453, § 2-14/HB 228; Ga. L. 2013, p. 524, § 1-8/HB 78; Ga. L. 2018, p. 602, § 3/HB 635.

§ 30-5-8 Criminal offenses and penalties

(a)

(1) It shall be unlawful for any person or official required by paragraph (1) of subsection (a) of Code Section 30-5-4 to report a case of disabled adult or elder person abuse to fail knowingly and willfully to make such report.

(2) Any person violating the provisions of this Code section shall be guilty of a misdemeanor.

(b) Any violation of this Code section shall constitute a separate offense.

History

Code 1981, § 30-5-8, enacted by Ga. L. 1984, p. 785, § 3; Ga. L. 1997, p. 700, § 2; Ga. L. 1999, p. 562, § 8; Ga. L. 2001, p. 484, § 1; Ga. L. 2003, p. 298, § 1A; Ga. L. 2007, p. 219, § 2/HB 233; Ga. L. 2009, p. 725, § 2/HB 457; Ga. L. 2010, p. 878, § 30/HB 1387; Ga. L. 2012, p. 351, § 1/HB 1110; Ga. L. 2013, p. 524, § 1-9/HB 78.

§ 30-5-9 Applicability to employment relationship

Nothing in this chapter shall be construed to limit the application of Code Section 34-7-1 to the employment relationship between a disabled adult or elder person and his or her employer or to create a new cause of action as a result of the employment relationship.

History

Code 1981, § 30-5-9, enacted by Ga. L. 1997, p. 700, § 2.

§ 30-5-10. Cooperative effort in development of programs relating to abuse and exploitation of disabled adults, elder persons, and residents of long-term care facilities

The department, the Georgia Peace Officer Standards and Training Council, the Prosecuting Attorneys' Council of the State of Georgia, and the Institute of Continuing Judicial Education shall develop programs for the education and training of social services, criminal justice, and judicial professionals concerning the abuse, neglect, and exploitation of disabled adults, elder persons, and residents of long-term care facilities, as defined in Code Section 16-5-100. Said agencies, together with any other agency of this state which is involved in the investigation of the abuse, neglect, or exploitation of disabled adults, elder persons, and residents of long-term care facilities, as defined in Code Section 16-5-100, are directed to cooperate in the development of such training programs to the extent allowable under Article I, Section II, Paragraph III of the Constitution of this state.

History

Code 1981, § 30-5-10, enacted by Ga. L. 2000, p. 1085, § 7; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2013, p. 524, § 1-10/HB 78.

§ 30-5-11 Establishment of Adult Abuse, Neglect, and Exploitation Multidisciplinary Team; membership; duties; creation of memorandum of understanding; confidentiality and limitations on

disclosures; reporting and reviews

(a) The district attorney of each judicial circuit may establish, or cause to be established, an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team for the purposes of:

(1) Coordinating the collaborative review of suspected instances of abuse, neglect, or exploitation of a disabled adult or elder person pursuant to Chapter 5 of Title 16 or Code Section 30-5-5, 31-7-12.1, or 31-8-83;

(2) Coordinating the collaborative review of responses to suspected instances of abuse, neglect, or exploitation of a disabled adult or elder person, including protective services; and

(3) Identifying opportunities within local jurisdictions to improve policies and procedures in the notification of and response to abuse, neglect, and exploitation given local resources.

(b) As determined by the district attorney or his or her designee, the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team shall consist of representatives, from within the appropriate judicial circuit, representing these suggested categories:

(1) The district attorney or his or her designee;

(2) Local law enforcement agencies;

(3) The Georgia Bureau of Investigation;

(4) Adult Protective Services of the department's Division of Aging Services;

(5) The state funded licensure activities of the Healthcare Facility Regulation Division of the Department of Community Health;

(6) The Department of Behavioral Health and Developmental Disabilities;

(7) The medical examiner or coroner of that county in which the team exists;

(8) Nonprofit organizations that provide victim services or adult care services;

(9) Local, regional, and state task forces or coordinating entities regarding at-risk adults;

(10) Providers of medical, legal, or housing services or housing facilities to disabled adults or elder persons who are victims of abuse, neglect, or exploitation; and

(11) Any other entity which the district attorney or his or her designee determines is necessary for the successful operation of the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team.

(c) Each Adult Abuse, Neglect, and Exploitation Multidisciplinary Team shall:

(1) Meet regularly, as determined by the district attorney or his or her designee; provided, however, that meetings shall be held at least semiannually; and

(2) Coordinate on investigations of instances of unlicensed personal care homes, or of suspected abuse, neglect, or exploitation of disabled adults or elder persons that are based on reports made pursuant to Chapter 5 of Title 16 or Code Section 30-5-4, 31-7-12.1, 31-8-82, or 31-8-83 or reports made or concerns raised by members of the agencies, organizations, or entities represented on the Adult Abuse, Neglect,

and Exploitation Multidisciplinary Team.

(d) The district attorney or his or her designee shall coordinate the creation of a memorandum of understanding that describes the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team's procedures and methods of operation in detail, including confidentiality requirements and the sharing of information among such team's members in accordance with subsection (e) of this Code section. The memorandum shall be signed by a representative of each agency, organization, or entity participating in such team.

(e) (1) All records and information acquired by an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons shall be confidential pursuant to Code Sections 30-5-7, 31-8-86, and 37-3-166; furthermore, notwithstanding any other provisions of law, information acquired by and documents, records, and reports of the team shall be confidential and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records.

(2) All records pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the departments included in the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team shall be available to the members of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team for the purpose of investigating or responding to a report of abuse, neglect, or exploitation of a disabled adult, elder person, or resident.

(3) It shall be unlawful for any member of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team to knowingly disclose, receive, make use of, or authorize, or knowingly permit, participate in, or acquiesce to the use of, any information received or generated in the course of the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team's investigations, responses, or activities to any third party; provided, however, that disclosure may be made to persons and entities directly involved in the administration of this Code section, including:

(A) Persons providing protective services necessary for the disabled adult or elder person;

(B) Representatives of law enforcement;

(C) Grand juries or courts in the exercise of official business;

(D) Members of such Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams; and

(E) Persons engaged in bona fide research or audit purposes; provided, however, that only information in the aggregate without identifying information shall be provided for research or audit purposes and confidentiality of the data shall be maintained.

(4) Unless expressly provided otherwise in the memorandum of understanding, members of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team may share information received or generated in the course of such team's investigations, responses, or activities only among members of such team.

(5) To promote efficiency and effectiveness in its mission, an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team may maintain a data base of information about such team's past and ongoing cases, provided that identifying information about individual victims and clients shall not be accessed by any person outside of such team other than those persons serving as care coordinators or victim

advocates or who represent organizations providing such services.

(f) (1) By March 1 of each calendar year, the Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams shall submit a report to the director of the Georgia Bureau of Investigation and the commissioner of human services regarding the prevalence and circumstances of abuse, neglect, or exploitation of disabled adults or elder persons in this state; shall recommend measures to reduce such crimes; and shall address in the report the following issues:

(A) How many investigations or cases the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team has received for the calendar year;

(B) How many reviews of investigations or cases recommended criminal prosecution; and

(C) Whether policy, procedural, regulatory, or statutory changes are called for as a result of these findings.

(2) The Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams shall also establish procedures for the conduct of reviews by local review committees into abuse, neglect, or exploitation of disabled adults or elder persons and may obtain the assistance from disabled adults or elder persons.

History

Code 1981, § 30-5-11, enacted by Ga. L. 2018, p. 602, § 4/HB 635.

§ 31-8-82 Persons required to report abuse or exploitation; time for making report; contents of report; records; privileged communications

(a) Any of the following people who have reasonable cause to believe that any resident or former resident has been abused or exploited while residing in a long-term care facility shall immediately make a report as described in subsection (d) of this Code section by telephone or in person to the department and shall make the report to the appropriate law enforcement agency or prosecuting attorney:

(1) Any person required to report child abuse as provided in subsection (c) of Code Section 19-7-5;

(2) Administrators, managers, or other employees of hospitals or long-term care facilities;

(3) Physical therapists;

(4) Occupational therapists;

(5) Day-care personnel;

(6) Coroners;

(7) Medical examiners;

(8) Emergency medical services personnel, as defined in Code Section 31-11-49;

(9) Any person who has been certified as an emergency medical technician, cardiac technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;

(10) Employees of a public or private agency engaged in professional health related services to residents; and

(11) Clergy members.

(b) Persons required to make a report pursuant to subsection (a) of this Code section shall also make a written report to the department within 24 hours after making the initial report.

(c) Any other person who has knowledge that a resident or former resident has been abused or exploited while residing in a long-term care facility may report or cause a report to be made to the department or the appropriate law enforcement agency.

(d) A report of suspected abuse or exploitation shall include the following:

(1) The name and address of the person making the report unless such person is not required to make a report;

(2) The name and address of the resident or former resident;

(3) The name and address of the long-term care facility;

(4) The nature and extent of any injuries or the condition resulting from the suspected abuse or exploitation;

(5) The suspected cause of the abuse or exploitation; and

(6) Any other information which the reporter believes might be helpful in determining the cause of the resident's injuries or condition and in determining the identity of the person or persons responsible for the abuse or exploitation.

(e) The department shall maintain accurate records which shall include all reports of abuse or exploitation, the results of all investigations and administrative or judicial proceedings, and a summary of actions taken to assist the resident.

(f) Any suspected abuse or exploitation which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse or exploitation has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report such matters confided to him or her solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about abuse or exploitation from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of such matters from the confession of the perpetrator.

History

Code 1933, § 88-1903c, enacted by Ga. L. 1980, p. 1261, § 1; Ga. L. 2009, p. 453, § 1-33/HB 228; Ga. L. 2013, p. 524, § 1-12/HB 78.

Appendix D

Other Types of Advocacy Agencies and Programs

Justice System Advocates—The role of Justice System Advocates is to provide support and communication to victims involved in the criminal justice system. Victim Witness Advocates are employees of the District Attorney's Office, or Law Enforcement. *They do not share the same privilege as Sexual Assault or Community Based Advocates and are obligated to share information about the victims(s) and/or about the sexual assault(s) case(s) with other members of the criminal justice system.* Victim Witness Advocates can provide information, support, and accompaniment to court. Victim Witness Advocates provide services to victims of all crimes not just sexual assault. It is important for the sexual assault victim to be informed about the differences in roles between Victim Witness Advocates and Sexual Assault or Community Based Advocates.

Campus Advocates—Many colleges and universities have advocates that provide support, information, and referral to victims of sexual assault. These advocates can be peer volunteers, staff of a university or staff of a community-based advocacy agency. Depending who they are employed by or volunteer for, Campus Advocates may or may not have the same privilege as employees of a community-based advocacy agency.

Tribal Advocates—Tribal Advocates are based within some larger tribes, and often work out of the community health clinics. Tribal advocates provide support, referral, and information to victims. They also collaborate with other community-based advocates or agencies.

Hospital Based Advocates—Hospital Based Advocates usually work within a hospital or medical center. These advocates are often employees of the hospital and provide crisis intervention services and medical advocacy to individuals seeking a SANE examination. Hospital based advocates generally do not provide long term services, and depending on whom their employer is, may or may not have confidentiality privilege

Appendix E

Sexual Assault Reform Act of 2021

House Bill 255 (AS PASSED HOUSE AND SENATE)

By: Representatives Holcomb of the 81st, Efrstration of the 104th, Hitchens of the 161st, Oliver of the 82nd, Hugley of the 136th, and others.

A BILL TO BE ENTITLED AN ACT

1 To amend Chapter 24 of Title 15 of the Official Code of Georgia Annotated, relating to
2 sexual assault protocol, so as to require certain certifications to be filed; to amend Article 4
3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to investigating
4 sexual assault, so as to provide for the retention of evidence of sexual assault when the victim
5 chooses not to immediately report the assault; to provide for a sexual assault case tracking
6 system; to provide for a definition; to provide for reports; to amend Chapter 1 of Title 35 of
7 the Official Code of Georgia Annotated, relating to general provisions regarding law
8 enforcement officers and agencies, so as to require law enforcement agencies to enter certain
9 information into the Violent Criminal Apprehension Program established and maintained by
10 the Federal Bureau of Investigation; to provide for the removal of information from such
11 program; to provide for hearing; to provide for a definition; to provide for applicability; to
12 provide a short title; to provide for related matters; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 SECTION 1.

16 This Act shall be known and may be cited as the "Sexual Assault Reform Act of 2021."

17 SECTION 2.

18 Chapter 24 of Title 15 of the Official Code of Georgia Annotated, relating to sexual assault
19 protocol, is amended by revising Code Section 15-24-2, relating to establishment of sexual
20 assault protocol and committee, representatives to committee, and annual meeting and
21 review, by adding a new subsection to read as follows:

22 "(g) The protocol committee shall submit a certification of annual compliance to the
23 Criminal Justice Coordinating Council by December 31 of each year. The Criminal Justice
24 Coordinating Council shall notify the Governor, Lieutenant Governor, Speaker of the
25 House of Representatives, and Chief Justice of the Georgia Supreme Court of any
26 noncompliant judicial circuits."

27 SECTION 3.

28 Article 4 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
29 investigating sexual assault, is amended by revising subsection (b) of Code Section 17-5-71,
30 relating to preservation of evidence, as follows:

31 "(b) If the victim does not cooperate with law enforcement in the investigation or

32 prosecution of an alleged sexual assault chooses not to report the alleged sexual assault to
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33 law enforcement at the time of evidence collection, the investigating law enforcement
34 agency with jurisdiction shall maintain any physical evidence collected as a result of such
35 alleged sexual assault that contains biological material, including, but not limited to, stains,
36 fluids, or hair samples that relate to the identity of the perpetrator of the alleged sexual
37 assault, for not less than 12 months from the date any such physical evidence is collected."

38

SECTION 4.

39 Said article is further amended by adding a new Code section to read as follows:

40 "17-5-74.

41 (a) For the purposes of this Code section, the term 'unreported sexual assault kit' means a
42 sexual assault kit collected from a victim who has consented to the collection of the sexual
43 assault kit but who has not reported the alleged crime to law enforcement.

44 (b) The Criminal Justice Coordinating Council shall create and operate a state-wide sexual
45 assault kit tracking system. The council may contract with state or nonstate entities
46 including, but not limited to, private software and technology providers, for the creation,
47 operation, and maintenance of the system.

48 (c) The state-wide sexual assault kit tracking system shall:

49 (1) Track the location and status of sexual assault kits throughout the criminal justice
50 process, including the initial collection in sexual assault forensic examinations performed
51 at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis
52 at forensic laboratories, and storage and any destruction after completion of analysis;

53 (2) Designate sexual assault kits as unreported or reported;

54 (3) Allow medical facilities performing sexual assault forensic examinations, law
55 enforcement agencies, prosecutors, the Division of Forensic Sciences of the Georgia
56 Bureau of Investigation, and other entities having custody of sexual assault kits to update
57 and track the status and location of sexual assault kits;

58 (4) Allow victims of sexual assault to anonymously track or receive updates regarding
59 the status of their sexual assault kits; and

60 (5) Use electronic technology or technologies allowing continuous access.

61 (d) The Criminal Justice Coordinating Council may use a phased implementation process
62 in order to launch the sexual assault kit tracking system and facilitate entry and use of the
63 system for required participants. The council may phase initial participation according to
64 region, volume, or other appropriate classifications. All law enforcement agencies and
65 other entities having custody of sexual assault kits shall register for and utilize the system
66 in order to fully participate no later than one year following the effective date of this Code
67 section. The council shall submit a report on the current status and plan for launching the
68 system, including the plan for phased implementation, to the appropriate committees of the
69 legislature and the Governor no later than January 1, 2022.

70 (e) The Criminal Justice Coordinating Council shall submit a report on the state-wide
71 sexual assault kit tracking system to the appropriate committees of the legislature and the
72 Governor. The council shall publish the current report on its website. The first report shall
73 be submitted on or before December 31, 2022, and subsequent reports are to be submitted

74 on or before December 31 of each year. Each report shall include the following:

75 (1) The number of sexual assault kits used by collection sites to conduct forensic medical
76 examinations of assault victims;

77 (2) Of the sexual assault kits used by collection sites to conduct forensic medical
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78 examinations, the number of sexual assault kits for which a sexual assault has been
79 reported to law enforcement, sorted by law enforcement agency;

80 (3) The average time for each law enforcement agency to collect reported sexual assault
81 kits from collection sites;

82 (4) Of the sexual assault kits generated for reported cases, the number of sexual assault
83 kits submitted to a laboratory for forensic testing;

84 (5) Of the sexual assault kits submitted for forensic testing, the number of kits for which
85 forensic testing has been completed;

86 (6) The number of sexual assault kits for which a sexual assault has not been reported
87 to law enforcement; and

88 (7) The jurisdictions in which reported sexual assault kits have not been submitted to the
89 Division of Forensic Services of the Georgia Bureau of Investigation in accordance with
90 Code Section 35-1-2.

91 (f) For the purpose of reports submitted under subsection (e) of this Code section, a sexual
92 assault kit shall be assigned to the jurisdiction associated with the law enforcement agency
93 anticipated to receive the sexual assault kit or otherwise having custody of the sexual
94 assault kit.

95 (g) Any public agency or entity, including its officials and employees, and any hospital
96 and its employees providing services to victims of sexual assault shall not be held civilly
97 liable for damages arising from any release of information or the failure to release
98 information related to the state-wide sexual assault kit tracking system, so long as the
99 release was without gross negligence.

100 (h) The Criminal Justice Coordinating Council shall adopt rules as necessary to implement
101 this Code section."

102

SECTION 5.

103 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
104 provisions regarding law enforcement officers and agencies, is amended by adding a new
105 Code section to read as follows:

106 "35-1-23.

107 (a) As used in this Code section, the term 'data base' means the national data base of the
108 Violent Criminal Apprehension Program established and maintained by the Federal Bureau
109 of Investigation or a successor data base.

110 (b) Each law enforcement agency in this state shall request access from the Federal Bureau
111 of Investigation to enter information into the data base.

112 (c) Each law enforcement agency that investigates a homicide or attempted homicide in
113 which the actions of the perpetrator are known or suspected to be serial in nature or are
114 random or sexually oriented; a rape, aggravated sodomy, or aggravated assault with the
115 intent to rape in which the actions of the perpetrator are known or suspected to be serial in

116 nature or in which the assault was committed by a stranger; a missing person case in which
117 the circumstances indicate a strong possibility of foul play; or a case involving unidentified
118 human remains from a known or suspected homicide shall enter into the data base the
119 following information regarding such investigation, as available:

120 (1) The name and date of birth of the alleged perpetrator;

121 (2) The specific crime being investigated;

122 (3) A description of the manner in which the crime was committed, including any pattern
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123 of conduct occurring during the course of multiple crimes suspected to have been
124 committed by the alleged perpetrator; and

125 (4) Any other information required by the Federal Bureau of Investigation for inclusion
126 in the data base.

127 Such information shall be updated with any new developments in the investigation
128 every 60 days thereafter.

129 (d)(1) Any individual who was deemed an alleged perpetrator and who had any
130 information collected pursuant to subsection (c) of this Code section may seek removal
131 of such information by:

132 (A) Submitting a request in writing for the removal of all such information, along with
133 all supporting documentation regarding such request, to the investigating law
134 enforcement agency; or

135 (B) If the investigating law enforcement agency denies the request to remove such
136 information, the individual may file a petition of removal with the superior court in the
137 jurisdiction of the investigating law enforcement agency.

138 (2) In considering a petition of removal pursuant to this subsection, the court shall
139 consider:

140 (A) Any evidence introduced by the petitioner;

141 (B) Any evidence introduced by the investigating law enforcement agency of the
142 jurisdiction where the petition is filed; and

143 (C) Any other relevant evidence.

144 (3) The court shall order a hearing on the petition if requested by the petitioner. The
145 court may issue an order removing the petitioner's name and information from the data
146 base if the court finds by a preponderance of the evidence that the petitioner's information
147 should be removed from the data base. The court shall send a copy of any order directing
148 the removal of the petitioner's name and information from the data base to the
149 investigating law enforcement agency.

150 (e) Information entered into the data base under this Code section shall not be subject to
151 disclosure under Article 4 of Chapter 18 of Title 50.

152 (f) This Code section shall apply to any pending investigation of an allegation of rape,
153 aggravated sodomy, or aggravated assault with intent to rape, regardless of whether the
154 investigation was commenced before, on, or after the effective date of this Code section.

155 (g) This Code section shall not apply to offenses when the victim is at least 14 but less
156 than 16 years of age and the offender is 18 years of age or younger and is not more than
157 four years older than the victim."

159 All laws and parts of laws in conflict with this Act are repealed.

Appendix F

Legislative Updates

House Bill 231 Stalking and Protective Orders

O.C.G.A. §19-13A-1 Dating Violence Protective Orders

§19-13A-1. Definitions

As used in this chapter, the term:

(1) "Dating relationship" means a committed romantic relationship characterized by a level of intimacy that is not associated with mere friendship or between persons in an ordinary business, social, or educational context; provided, however, that such term shall not require sexual involvement.

(2) "Dating violence" means the occurrence of one or more of the following acts between persons through whom a current pregnancy has developed or persons currently, or within the last six months were, in a dating relationship:

(A) Any felony; or

(B) Commission of the offenses of simple battery, battery, simple assault, or stalking.

History

Code 1981, § 19-13A-1, enacted by Ga. L. 2021, p. 658, § 2/HB 231.

§19-13A-2. Jurisdiction

(a) Except for proceedings involving a nonresident respondent, the superior court of the county where the respondent resides shall have jurisdiction over all proceedings under this chapter.

(b) For proceedings under this chapter involving a nonresident respondent, the superior court where the petitioner resides or the superior court where an act or injury involving dating violence allegedly occurred shall have jurisdiction, where the act or injury involving dating violence meets the elements for personal jurisdiction provided for under paragraph (2) or (3) of Code Section 9-10-91.

History

Code 1981, § 19-13A-2, enacted by Ga. L. 2021, p. 658, § 2/HB 231.

§ 19-13A-3. Temporary relief to protect from dating violence; hearing and evidentiary standard; non-attorney assistance; delays

(a) Upon the filing of a verified petition in which the petitioner alleges with specific facts that probable cause exists to establish that dating violence has occurred in the past and may occur in the future, the court may order such temporary relief ex parte as it deems necessary to protect the petitioner from dating violence. If the court issues an ex parte order, a copy of the order shall be immediately furnished

to the petitioner and such order shall remain in effect until the court issues an order dismissing such order or a hearing as set forth in subsection (b) of this Code section occurs, whichever occurs first.

(b) Within ten days of the filing of the petition under this chapter or as soon as practical thereafter, but not later than 30 days after the filing of the petition, a hearing shall be held at which the petitioner must prove the allegations of the petition by a preponderance of the evidence as in other civil cases. In the event a hearing cannot be scheduled within the county where the case is pending within the 30 day period, the same shall be scheduled and heard within any other county of that circuit. If a hearing is not held within 30 days of the filing of the petition, the petition shall stand dismissed unless the parties otherwise agree.

(c) Social service agency staff members designated by the court may explain to all petitioners not represented by counsel the procedures for filling out and filing all forms and pleadings necessary for the presentation of their petition to the court. The clerk of the court may provide forms for petitions and pleadings to petitioners and to any other person designated by the superior court pursuant to this Code section as authorized to advise petitioners on filling out and filing such petitions and pleadings. The clerk shall not be required to provide assistance to persons in completing such forms or in presenting their case to the court. Any assistance provided pursuant to this Code section shall be performed without cost to the petitioners. The performance of such assistance shall not constitute the practice of law as defined in Code Section 15-19-51.

(d) If the court finds a party is avoiding service to delay a hearing, the court may delay dismissal of the petition for an additional 30 days.

History

Code 1981, § 19-13A-3, enacted by Ga. L. 2021, p. 658, § 2/HB 231.

§ 19-13A-4. Required findings of fact; authority of court

(a) (1) In order to determine if a protective order alleging dating violence shall be granted, the court shall provide findings of fact establishing that:

(A) There is a committed romantic relationship between the parties that is not associated with mere friendship or ordinary business, social, or educational fraternization;

(B) Factors exist which corroborate the dating relationship;

(C) The parties developed interpersonal bonding above a mere casual fraternization;

(D) The length of the relationship between the parties is indicative of a dating relationship;

(E) The nature and frequency of the parties' interactions, including communications, indicate the parties intended to be in a dating relationship;

(F) The parties by statement or conduct demonstrated an affirmation of their relationship to others; or

(G) Both parties have acknowledged the dating relationship.

(2) Nothing in this chapter shall be construed as preventing the filing or granting of a protective order otherwise provided for under law for persons who reside together.

(b) The court may, upon the filing of a verified petition and as provided in subsection (a) of this Code section, grant any protective order or approve any consent agreement to bring about a cessation of acts

of dating violence. The court shall not have the authority to issue or approve mutual protective orders concerning paragraph (1), (3), or (5) of this subsection, or any combination thereof, unless the respondent has filed a verified petition as a counter petition pursuant to Code Section 19-13A-3 no later than three days prior to the hearing and the provisions of Code Section 19-13A-3 have been satisfied. The orders or agreements may:

- (1) Direct the respondent to refrain from such acts;
 - (2) Provide for possession of personal property of the parties;
 - (3) Order the respondent to refrain from harassing or interfering with the petitioner;
 - (4) Award costs and attorney's fees to either party; and
 - (5) Order the respondent to receive appropriate psychiatric, psychological, or educational services as a further measure to prevent the recurrence of dating violence.
- (c) A copy of the order shall be issued by the clerk of the superior court to the sheriff of the county wherein the order was entered and shall be retained by the sheriff as long as that order shall remain in effect.
- (d) Any order granted under this Code section shall remain in effect for up to one year; provided, however, that upon the motion of a petitioner and notice to the respondent and after a hearing, the court in its discretion may convert a temporary order granted under this Code section to an order effective for not more than three years or to a permanent order.
- (e) A protective order issued pursuant to this Code section shall apply and shall be effective throughout this state. It shall be the duty of every superior court and of every sheriff, every deputy sheriff, and every state, county, or municipal law enforcement officer within this state to enforce and carry out the terms of any valid protective order issued by any court under the provisions of this Code section.

History

Code 1981, § 19-13A-4, enacted by Ga. L. 2021, p. 658, § 2/HB 231.

§ 19-13A-5. Exclusivity of remedy

The remedies provided by this chapter are not exclusive but are additional to any other remedies provided by law.

History

Code 1981, § 19-13A-5, enacted by Ga. L. 2021, p. 658, § 2/HB 231.

§ 19-13A-6. Penalty for violation of order

A violation of an order issued pursuant to this chapter may be punished by an action for contempt or criminally punished as provided in Article 7 of Chapter 5 of Title 16.

History

Code 1981, § 19-13A-6, enacted by Ga. L. 2021, p. 658, § 2/HB 231.

O.C.G.A. §16-5-94. Stalking; Restraining orders; Protective orders

(a) A person who is not a minor who alleges stalking by another person may seek a restraining order by filing a petition alleging conduct constituting stalking as defined in Code Section 16-5-90. A person who is not a minor may also seek relief on behalf of a minor by filing such a petition.

(b) Jurisdiction for such a petition shall be the same as for family violence petitions as set out in Code Section 19-13-2.

(c) Upon the filing of a verified petition in which the petitioner alleges with specific facts that probable cause exists to establish that stalking by the respondent has occurred in the past and may occur in the future, the court may order such temporary relief ex parte as it deems necessary to protect the petitioner or a minor of the household from stalking. If the court issues an ex parte order, a copy of the order shall be immediately furnished to the petitioner.

(d) The court may grant a protective order or approve a consent agreement to bring about a cessation of conduct constituting stalking. Orders or agreements may:

(1) Direct a party to refrain from such conduct;

(2) Order a party to refrain from harassing or interfering with the other;

(3) Award costs and attorney's fees to either party; and

(4) Order either or all parties to receive appropriate psychiatric or psychological services as a further measure to prevent the recurrence of stalking.

(e) The provisions of subsections (c), (d), and (e) of Code Section 19-13-3, subsections (b), (c), and (d) of Code Section 19-13-4, and Code Section 19-13-5, relating to family violence petitions, shall apply to petitions filed pursuant to this Code section, except that the clerk of court may provide forms for petitions and pleadings to persons alleging conduct constituting stalking and to any other person designated by the superior court pursuant to this Code section as authorized to advise persons alleging conduct constituting stalking on filling out and filing such petitions and pleadings.

History

Code 1981, § 16-5-94, enacted by Ga. L. 1998, p. 885, § 3; Ga. L. 1999, p. 81, § 16; Ga. L. 2021, p. 658, § 1/HB 231.

Senate Bill 75 Stalking and Residential Leases

O.C.G.A. §44-7-23. Termination of residential lease after issuance of civil or criminal family violence order or civil or criminal stalking order; notice; occupancy, waiver or modification prohibited

(a) As used in this Code section, the term:

(1) "Civil family violence order" means:

(A) Any protective order issued pursuant to Article 1 of Chapter 13 of Title 19, provided that the respondent was present or had notice of the hearing that resulted in the issuance of such order; or

(B) Any ex parte temporary protective order issued pursuant to Article 1 of Chapter 13 of Title 19, provided that such order is accompanied by a police report showing a basis for such order.

(2) "Civil stalking order" means:

(A) Any protective order issued pursuant to Code Section 16-5-94, provided that the respondent was present or had notice of the hearing that resulted in the issuance of such order; or

(B) Any ex parte temporary protective order issued pursuant to Code Section 16-5-94, provided that such order is accompanied by a police report showing a basis for such order.

(3) "Criminal family violence order" means:

(A) Any order of pretrial release issued as a result of an arrest for an act of family violence; or

(B) Any order for probation issued as a result of a conviction or plea of guilty, nolo contendere, or first offender to an act of family violence.

(4) "Criminal stalking order" means:

(A) Any order of pretrial release issued as a result of an arrest for an act of stalking under Article 7 of Chapter 5 of Title 16; or

(B) Any order for probation issued as a result of a conviction or plea of guilty, nolo contendere, or first offender to an act of stalking under Article 7 of Chapter 5 of Title 16.

(b) A tenant may terminate his or her residential rental or lease agreement for real estate effective 30 days after providing the landlord with a written notice of termination when a civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order has been issued:

(1) Protecting such tenant or his or her minor child; or

(2) Protecting such tenant when he or she is a joint tenant, or his or her minor child, even when such protected tenant had no obligation to pay rent to the landlord.

(c) The notice to the landlord pursuant to subsection (b) of this Code section shall be accompanied by a copy of the applicable civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order and a copy of the police report if such order was an ex parte temporary protective order.

(d) Upon termination of a residential rental or lease agreement under this Code section, the tenant may occupy the real estate until the termination is effective. Such tenant shall be liable for the rent due under such agreement prorated to the effective date of the termination, payable at such time as would have otherwise been required by the terms of such agreement, and for any delinquent or unpaid rent or other sums owed to the landlord prior to the termination of such agreement. The tenant shall not be liable for any other fees, rent, or damages due to the early termination of the tenancy as provided for in this Code section. Notwithstanding any provision of law to the contrary, if a tenant terminates a residential rental or lease agreement pursuant to this Code section 14 or more days prior to occupancy, no damages or penalties of any kind will be assessable.

(e) This Code section shall not be waived or modified by the agreement of the parties under any circumstances.

History

Code 1981, § 44-7-23, enacted by Ga. L. 2018, p. 969, § 2/HB 834; Ga. L. 2021, p. 513, § 1/SB 75.

House Bill 141 Georgia Crime Victims Emergency Fund

O.C.G.A. §17-15-8. (Effective July 1, 2022.) Required findings; amount of award; method of payment; rejection of claim; reductions; exemptions; effective date for awards; psychological counseling for relatives of deceased; memorials for victims of DUI homicide

(a) No award may be made unless the board or director finds that:

(1) A crime was committed;

(2) The crime directly resulted in the victim's physical injury, serious mental or emotional trauma, or financial hardship as a result of the victim's physical injury, serious mental or emotional trauma, or the victim's death;

(3) Police records, records of an investigating agency, or records created pursuant to a mandatory reporting requirement show that the crime was promptly reported to the proper authorities. In no case may an award be made where the police records, records of an investigating agency, or records created pursuant to a mandatory reporting requirement show that such report was made more than 72 hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified and provided, further, that good cause shall be presumed if the person is eligible for awards pursuant to this chapter corresponding to subparagraph (a)(1)(D) of Code Section 17-15-7; and

(4) The applicant has pursued restitution rights against any person who committed the crime unless the board or director determines that such action would not be feasible.

(a.1) The board, upon finding that any claimant or award recipient has not fully cooperated with all law enforcement agencies, may deny, reduce, or withdraw any award.

(b) Any award made pursuant to this chapter shall be in an amount not exceeding actual expenses, including indebtedness reasonably incurred for medical expenses, loss of wages, funeral expenses, mental health counseling, or support for dependents of a deceased victim necessary as a direct result of the injury or hardship upon which the claim is based.

(b.1)

(1) Payments made by the board to medical service providers for compensation for medical services shall be made in accordance with the list of usual, customary, and reasonable charges for medical services published by the State Board of Workers' Compensation as provided for in Code Section 34-9-205 unless an investigation of the charges by the board determines that there is a reasonable health care justification for the deviation from such list of usual, customary, and reasonable charges.

(2) Payments made to and accepted by a medical provider shall be considered payment in full for the charges with respect to the board, victim, and claimant.

(c)

(1) Notwithstanding any other provisions of this chapter, no award made under the provisions of this chapter shall exceed \$1,000.00 in the aggregate; provided, however, that with respect to any claim filed with the board as a result of a crime occurring on or after July 1, 1994, no award made under the provisions of this chapter payable to a claimant sustaining economic loss because of injury to or death of a victim shall exceed \$5,000.00 in the aggregate; provided, further, that with respect to any claim filed with the board as a result of a crime occurring on or after July 1, 1995, no award made under the provisions of this chapter payable to a claimant sustaining economic loss because of injury to or death of a victim shall exceed \$10,000.00 in the aggregate; provided, further, that with respect to any claim filed with the board as a result of a crime occurring on or after July 1, 2002, no award made under the provisions of this chapter payable to a claimant sustaining economic loss because of injury to or death of a victim shall exceed \$25,000.00 in the aggregate; provided, further, that with respect to any claim filed with the board for serious mental or emotional trauma, no award shall be made for a crime occurring before July 1, 2009.

(2) No award under this chapter for the following losses shall exceed the maximum amount authorized:

Category Maximum Award

Lost wages \$ 10,000.00

Funeral expenses 6,000.00

Financial hardship or
loss of support 10,000.00

Medical 15,000.00

Counseling 3,000.00

Crime scene sanitization 1,500.00

(d) In determining the amount of an award, the director and board shall determine whether because of his or her conduct the victim contributed to the infliction of his or her injury, serious mental or emotional trauma, or financial hardship, and the director and board may reduce the amount of the award or reject the claim altogether in accordance with such determination.

(e) The director and board may reject an application for an award when the claimant has failed to cooperate in the verification of the information contained in the application.

(f) Any award made pursuant to this chapter may be reduced by or set off by the amount of any payments received or to be received as a result of the injury, serious mental or emotional trauma:

(1) From or on behalf of the person who committed the crime; and

(2) From any other private or public source, including an award of workers' compensation pursuant to the laws of this state,

provided that private sources shall not include contributions received from family members or persons or private organizations making charitable donations to a claimant.

(g) No award made pursuant to this chapter shall be subject to garnishment, execution, or attachment other than for expenses resulting from the injury or serious mental or emotional trauma which is the basis for the claim.

(h) An award made pursuant to this chapter shall not constitute a payment which is treated as ordinary income under either the provisions of Chapter 7 of Title 48 or, to the extent lawful, under the United States Internal Revenue Code.

(i) Notwithstanding any other provisions of this chapter to the contrary, no awards from state funds shall be paid to a claimant for a crime which occurred prior to July 1, 1989.

(j) In any case where a crime results in death, the spouse, parents, step-parents, children, step-children, siblings, or step-siblings of such deceased victim may be considered eligible for an award for the cost of psychological counseling which is deemed necessary as a direct result of said criminal incident. The maximum award for said counseling expenses shall not exceed \$3,000.00 for each claimant identified in this subsection.

(k)

(1) In addition to any other award authorized by this Code section, in any case where a deceased was a victim of homicide by vehicle caused by a violation of Code Section 40-6-391 on any road which is part of the state highway system, upon request of the next of kin of the deceased, an award of compensation in the form of a memorial sign erected by the Department of Transportation as provided by this subsection shall be paid to an eligible claimant.

(2) The provisions of paragraph (4) of subsection (a) of this Code section shall not apply for purposes of eligibility for awards made under this subsection, and the value of any award paid to a claimant under this subsection shall not apply toward or be subject to any limitation on award amounts paid to any claimant under other provisions of this Code section.

(3) The Department of Transportation, upon receiving payment for the cost of materials and labor from the board, shall upon request of the next of kin of the deceased erect a sign memorializing the deceased on the right of way of such public highway at the location of the accident or as near thereto as safely and reasonably possible and shall maintain such sign for a period of five years from the date the sign is erected unless its earlier removal is requested in writing by the next of kin. Such sign shall be 24 inches wide by 36 inches high and depict a map of the State of Georgia, with a dark blue background and a black outline of the state boundaries. A border of white stars shall be placed on the inside of the state boundaries, and the sign shall contain the words "In Memory of (name), DUI Victim (date of accident)."

(4) In the event of multiple such claims arising out of a single motor vehicle accident, the names of all deceased victims for whom such claims are made and for whom a request has been made by the next of kin of the deceased may be placed on one such sign or, if necessary, on one such sign and a plaque beneath of the same color as the sign. In the event of multiple claims relating to the same deceased victim, no more than one such sign shall be paid for and erected for such victim.

History

Code 1981, § 17-15-8, enacted by Ga. L. 1988, p. 591, § 1; Ga. L. 1992, p. 2426, §§ 4, 5; Ga. L. 1994, p. 1800, § 6; Ga. L. 1995, p. 385, § 1; Ga. L. 1997, p. 481, § 4; Ga. L. 2002, p. 843, § 3; Ga. L. 2004, p. 631, § 17; Ga. L. 2004, p. 709, § 4; Ga. L. 2009, p. 195, § 6/SB 172; Ga. L. 2011, p. 217, § 6/HB 200; Ga. L. 2014, p. 354, § 1/SB 187; Ga. L. 2014, p. 354, § 17/SB 340; Ga. L. 2015, p. 1029, § 2/SB 79; Ga. L. 2021, p. 510, § 1/HB 141.

Senate Bill 33 Perpetrators of Human Trafficking

O.C.G.A. §51-1-56. Civil recovery available to victims of human trafficking; statute of limitations; relief sought by Attorney General

(a) As used in this Code section, the term:

(1) "Criminal action" means the investigation or prosecution of an offense that is pending final adjudication in a trial court.

(2) "Perpetrator" means a person or entity that knowingly benefits, financially or by receiving anything of value, from participation in a venture or scheme which such person or entity knew or should have known involved a violation of Code Section 16-5-46.

(b) An individual who is a victim of a violation of Code Section 16-5-46 shall have a cause of action against any perpetrator of said violation and may recover damages and reasonable attorney's fees.

(c) Any action filed under subsection (b) of this Code section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the individual is the victim.

(d) Notwithstanding any other law to the contrary, an action may be brought under subsection (b) of this Code section within ten years after the:

(1) Cause of action arose; or

(2) Victim reaches 18 years of age, if the victim was a minor at the time of the alleged violation.

(e) Whenever the Attorney General has reasonable cause to believe that an interest of the citizens of this state has been or is threatened or adversely affected by a perpetrator, the Attorney General shall have a cause of action against such perpetrator on behalf of the state to obtain appropriate relief.

History

Code 1981, § 51-1-56, enacted by Ga. L. 2021, p. 99, § 1/SB 33.

Senate Bill 34 Name Changes for Human Trafficking Victims

O.C.G.A. §19-12-1. Petition for name change; request by victim of family violence or human trafficking; notice of filing; consent of minor's parents or guardian

(a) As used in this Code section, the term:

(1) "Abandoned" shall have the same meaning as set forth in Code Section 15-11-2.

(2) "Child" means an unemancipated individual who is under 18 years of age.

(3) "Family violence" shall have the same meaning as set forth in Code Section 19-13-1.

(4) "Human trafficking" means an offense provided for under Code Section 16-5-46.

(b) Any individual desirous of changing his or her name or the name of his or her child may present a petition to the superior court of the county of his or her residence. Such petition shall set forth fully and particularly the reasons why the name change is being requested. Such petition shall be verified by the petitioner.

(c)

(1) When a name change is requested by a petitioner who alleges to be a victim of family violence or human trafficking, such petitioner may petition the court to file his or her petition to change his or her name under seal.

(2) If the court determines that the petitioner is a victim of family violence or human trafficking, the court may issue an order waiving the requirements of publication as set forth in subsection (d) of this Code section. If the court determines that such filing shall be allowed to proceed under seal and otherwise waives the other requirements of this Code section, it may hear and determine all of the matters raised in such petition and render a final judgment thereon.

(3) After issuing an order under paragraph (2) of this subsection, the court may later unseal a petition for name change or order the petitioner to file a redacted version of such petition for the public record.

(4) If the court determines that the petitioner is not a victim of family violence or human trafficking, the underlying petition for name change shall not be heard until this Code section has been complied with in full.

(5) The court shall retain all filings made under seal as part of the record.

(d) Except when an order has been issued as provided in paragraph (2) of subsection (c) of this Code section, within seven days of the filing of the petition, the petitioner shall cause a notice to be published once a week for four consecutive weeks in the legal organ of the county in which such petition is pending. The notice shall contain the name of the petitioner, the name of the individual whose name is to be changed if different from that of the petitioner, the new name desired, the court in which the petition is pending, the date on which the petition was filed, and the right of any interested or affected party to appear and file objections.

(e) If the petitioner seeks to change the name of his or her child, the written consent of his or her parent or parents if they are living and have not abandoned the child, or the written consent of the child's guardian if both parents are deceased or have abandoned the child, shall be filed with the petition.

(f) When a petition is seeking to change the name of a child, the parent or parents of the child shall be served with a copy of the petition. If the parent or parents reside within this state, service of the petition shall be made in person, provided that if the location or address of the parent is unknown, service of the petition on the parent shall be made by publication as provided in subsection (d) of this Code section. If the parent or parents reside outside this state, service of the petition on the parent or parents residing

outside this state shall be made by certified mail or statutory overnight delivery if the address is known or by publication as provided in subsection (d) of this Code section if the address is not known.

(g) When a child resides with individuals other than his or her parent or parents, a copy of the petition shall be served upon such individuals in the same manner as service would be made on a parent.

(h) So long as a petition has not been heard and granted under paragraph (2) of subsection (c) of this Code section, after proof to the court of publication of the notice as required by subsection (d) of this Code section is made, if no objection was filed, the court shall proceed at chambers on such date as the court shall fix to hear and determine all matters raised by the petition and to render final judgment or decree thereon. Such hearing shall occur upon the expiration of:

(1) Thirty days from the filing of the petition if the individual whose name to be changed is an adult;

(2) Thirty days from the date of service upon the parent, parents, or guardian of a child whose name is to be changed if the parent, parents, or guardian reside within this state; or

(3) Sixty days from the date of service upon the parent, parents, or guardian of a child whose name is to be changed if either the parent, parents, or guardian reside outside the state and the petition is served by mail.

(i) For service required by this Code section, the clerk shall receive the fees prescribed in Code Section 15-6-77.

History

Ga. L. 1875, p. 103, § 1; Code 1882, § 1787a; Civil Code 1895, § 2495; Civil Code 1910, § 3014; Code 1933, § 79-501; Ga. L. 1943, p. 260, § 1; Ga. L. 1961, p. 129, § 1; Ga. L. 1973, p. 504, § 1; Ga. L. 1977, p. 1098, § 10; Ga. L. 1978, p. 1365, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2017, p. 571, § 1/HB 279; Ga. L. 2021, p. 100, § 1/SB 34.