

SEXUAL ASSAULT PROTOCOL

For the Investigation, Prosecution, and Judgment of Sexual Assault

2nd Edition

The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL
S.T.O.P. Violence Against Women Program

ALAN WILSON
ATTORNEY GENERAL

2nd Edition



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General Protocol Information

This is the 2nd Edition Protocol and all information contained herein may be considered current as of April 2015.

Organization

The protocol is divided into parts and sections. When viewing the Protocol on your computer, select “View,” “Navigation Tabs,” and “Bookmarks.” Selecting any document name in the Bookmark will allow you to instantly relocate to that document within the protocol.

Content

Despite the designated protocol divisions, other valuable, related information is located throughout the protocol.

Additional Copies

Additional copies of the protocol may be obtained by contacting the S.T.O.P. Violence Against Women program at 803.734.3717.

The information contained in the protocol is available only for law enforcement, victim advocates, health professionals, prosecutors, and judges. Distribution to any others is strictly prohibited.

All questions, concerns and/or suggestions should be submitted to the S.T.O.P. Violence Against Women program at 803.734.3717.



April 2015

A MESSAGE TO LAW ENFORCEMENT OFFICERS, VICTIM ADVOCATES, PROSECUTORS, AND
JUDGES

from Attorney General Alan Wilson

Although we have made progress to eradicate sexual assault, it is still a serious crime with far-reaching impact. We must consistently enforce South Carolina's sexual assault laws, thereby holding perpetrators accountable for their crimes in our state.

This is the second edition of the Sexual Assault Protocol for the State of South Carolina and continues to represent collaboration between numerous agencies.

The Office of the Attorney General is committed to stopping sexual assault. As a part of this effort, the Protocol has outlined a comprehensive statewide policy for the investigation, prosecution, and judgment of sexual assault crimes. We believe the Protocol will assist all parties involved with providing justice to these victims, thus effectuating an increase in sexual assault convictions and a decrease in the rate of recidivism.

Together, we can make South Carolina a safe place for our community.

Yours very truly,

Alan Wilson

Purpose

The purpose of this protocol is to provide law enforcement officers, victim advocates, healthcare professionals, and prosecutors with effective tools and information that can be used in the handling of sexual assault cases.

This protocol was developed in response to and recognition of the fact that sexual assault crimes are insidious and far-reaching. Without the support and willingness of the judicial system to prosecute offenders, they are given license to repeatedly terrorize and brutalize their victims. Therefore, prosecution of sexual assault must be a priority.

- ✓ Prosecution is the formal expression of social norms. The absence of prosecution means the unspoken presence of permission to commit crime.
- ✓ Unless there is prosecution following arrest, law enforcement efforts are in vain.

The prosecution of offenders in a swift and uniform manner may deter them from future acts of sexual assault and violence, thereby creating a safer environment for the victim.

Law enforcement should treat all acts of sexual assault as criminal conduct and should utilize tools and policies available to them through non-profit organizations, local and state agencies and South Carolina law. The investigation of sexual assault cases is essential to the effective prosecution of the cases.

Prosecutors should treat all sexual assault cases as criminal conduct. Attention should be given to ensure that all appropriate charges are filed against offenders.

Judges should treat all sexual assault cases as criminal conduct; focus and attention should exclusively be given to the criminal behavior of the offender and not to any actions of the victim. Judges have the ultimate authority in holding offenders accountable for their actions.

This protocol will provide a guide on how to investigate, evaluate, prosecute, and dispose of sexual assault cases. Successful intervention on behalf of the criminal justice system, with or without the victim's participation, is the best way to stop interpersonal violence and hold offenders accountable for their actions.

Special Considerations for Underserved Populations

The term “underserved population” refers to those individuals who experience barriers to obtaining needed services when seeking justice and medical services, including a lack of knowledge of services available to meet their needs.

It is imperative that sexual assault response teams collaborate with experienced organizations that work with these special populations within a community to glean the knowledge and expertise necessary to provide the best available sexual assault care.

The information contained within this section should be used as a guide for sexual assault responders when working with underserved populations.

Victims with Limited English Proficiency

- A person’s culture can influence healthcare beliefs, treatment outcomes, emotional healing, and general beliefs about practices regarding justice in the aftermath of a sexual assault, the response of the criminal justice system, and the willingness of victims to be involved in the system.
- Victims may be apprehensive about receiving care from those of a different culture other than their own as a result of distrust and previous negative experiences; therefore, it may be helpful when possible to provide responders of the same background or at least who understand a victim’s culture.
- Consider cultural beliefs when asking a patient to discuss the sexual assault.
- Understand that victims may not report or discuss the assault because the stigma associated with it is so overwhelmingly negative. In some cultures, for example, the loss of virginity prior to marriage is devastating and may render victims unacceptable for an honorable marriage. Even discussing an assault or sexual terms may be linked with intense embarrassment and shame in some cultures.
- Responders should be familiar with procedures for coordinating services and interventions for victims in communities that recognize cultures that have their own laws, such as Indian tribes.
- All victims should be treated individually, understanding that what helps one victim deal with a traumatic situation like sexual assault may not be the same for another victim. Do not stereotype beliefs based on race, gender, sexual orientation, or religion.
- Help victims obtain culturally specific assistance and/or provide referrals where they exist.
- Be patient and understanding toward victims’ language skills and barriers, which may worsen with crisis.
- Make every attempt to provide same-language service through the use of demonstrably bilingual examiners or by providing monolingual examiners with support from professional interpretation services and translated materials for victims who do not speak English. Use certified interpreters when possible and not victims’ families or friends. Take the victim’s country of origin, acculturation level, and dialect into account when responding or arranging interpretation. Remember to speak directly to victims when interpreters are used.

- Train interpreters about issues related to sexual assault, confidentiality, and cultural concerns whenever they are needed to facilitate communication in these cases. Make sure that interpreters understand that they may need to testify.

United States Immigrants

In addition to the information provided above regarding culture, immigrant survivors face particular and difficult barriers in accessing services following a sexual assault. Sexual assault responders must understand these barriers and work to eliminate them.

- When dealing with a sexual assault of an immigrant, be careful of your questioning. Questions should be posed as, "*Do you have any immigration concerns?*" rather than, "*What is your immigration status?*".
- Anticipate that an immigrant victim will usually not self-identify as undocumented or as fearing deportation. Such information about their rights should be offered to all victims, and in coordination with a referral to an immigration service provider experienced in working with immigrant victim populations.
- Immigrant victims of sexual assault may also qualify for immigration remedies that will allow them to stay in the United States lawfully and attain work authorization. These remedies may include:
 - Violence Against Women Act (“VAWA”) Self-Petitions
 - U-Visas
 - T-Visas
 - Special Immigrant Juvenile Status.

Victims with Disabilities

Reasonable accommodations for a disability are considered best practice.

- The rate of victimization for individuals with disabilities is disproportionately higher than for the general population, as disabled individuals are often victimized by family members, caretakers, or friends.
- Ask victims who they wish to have with them and respect those wishes. Designated individuals permitted by the victim need instruction on remaining silent so as to avoid influencing the victim’s statements.
- Follow facility and jurisdictional policy for assessing vulnerable adults’ ability to consent to the exam and evidence collection, and involve protective services as needed.
- Speak directly to victims with disabilities, even when interpreters, intermediaries, or guardians are present.
- Assess a victim’s level of ability and need for assistance during the exam process. Explain procedures to victims and ask what help they require, if any (e.g., people with physical disabilities may need help to get on and off the exam table or to assume positions necessary for the exam). Do not assume they will need special aid.
- Note that not all individuals who are deaf or hard-of-hearing understand sign language or can read lips. Not all blind persons can read Braille. Communication equipment that may be beneficial to victims with sensory disabilities include TTY machines, word boards, speech synthesizers, anatomically correct dolls, materials in alternative formats, and access to interpreter services. Become familiar with the

basics of communicating with an individual using such devices. Be aware that victims with sensory disabilities may prefer communicating through an intermediary who is familiar with their patterns of speech.

- Recognize that individuals may have some degree of cognitive disability: mental retardation, mental illness, developmental disabilities, traumatic brain injury, neurodegenerative conditions such as Alzheimer's disease, or stroke. Note that not all developmental disabilities affect cognitive ability (e.g., cerebral palsy may result in physical rather than mental impairment). Be aware that victims with cognitive disabilities may be easily distracted and have difficulty focusing. To reduce distractions, conduct the exam in an area that is void of bright lights and loud noises. Speak to victims in a clear and calm voice and ask very specific and concrete questions. Be exact when explaining what will happen during the exam process and why. It may also be helpful if examiners and others present in the exam room refrain from wearing uniforms with ornamental designs and jewelry.
- Victims with disabilities may be apprehensive in consenting to an examination or reporting the crime for fear of losing their independence. For example, if a family member and primary caretaker is the abuser, the victim may need to be placed in a nursing home.
- Recognize this may be the first experience that victims have had with a pelvic exam. The procedure should be explained in detail in language in a way they can understand. Consider cognitive abilities and possible lack of knowledge regarding reproductive health. They may not know how they feel about the incident or even identify that a crime was committed against them.
- Some victims with disabilities may want to talk about their perceptions of the role their disability might have played in making them vulnerable to an assault. Listen to their concerns and what the experience was like for them. Assure them that it was not their fault they were sexually assaulted. If needed, encourage discussion in a counseling/advocacy setting on this issue as well as on what might help them feel safer in the future.
- Recognize that the exam may take longer to perform with victims with disabilities. Avoid rushing—such action not only may distress victims, but also can lead to missed evidence and information.

Male Victims

- Help male victims understand that male sexual assault is not uncommon and that the assault was not their fault. Many male victims focus on the sexual aspect of the assault and overlook other elements such as coercion, power differences, and emotional abuse. Broadening their understanding of sexual assault may help reduce their self-blame.
- Because some male victims may fear public disclosure of the assault and the stigma associated with male sexual victimization, emphasis may need to be placed on the scope of confidentiality of patient information during the exam process.
- Offer male victims assistance in considering how friends and family members will react to the fact that they were sexually assaulted (e.g., by a male offender or a female offender).
- Male victims may be less likely than females to seek and receive support from family members and friends, as well as from advocacy and counseling services. Their ability to seek support may vary according to the level of stigmatization they

feel, the circumstances of the assault, the sensitivity of care they initially receive, and the appropriateness of referrals provided.

- Encourage advocacy programs and the mental health community to build their capacities to serve male sexual assault victims and increase their accessibility to this population. Requests by male victims to have an advocate of a particular gender should be respected and honored if possible.

Adolescent Victims

- Adolescents in the presence of parents or guardians create an additional challenge for those involved in the Sexual Assault Response Team (“SART”) process because they are often traumatized by their child’s victimization.
- Understand there is a risk for further victimization by parents or guardians who punish victims for the assault for not obeying them.
- Assess the physical development of adolescent victims, taking age into consideration when determining appropriate methods of examination and evidence collection. Examinations in South Carolina should only be performed by trained professionals.
- Be aware of South Carolina laws governing a minor’s ability to consent to forensic exams and medical treatment. Follow facility and jurisdictional policy in obtaining appropriate consent.
- A detailed explanation of the examination should be provided. This includes the pelvic examination, as this may be the victim’s first experience receiving one.
- Reassure the adolescent that regardless of their actions they are not to blame for the assault.
- When possible, health care providers should gather information from the adolescent without the parents or guardian in the room. This permits the adolescents to share their concerns more openly.

Older Victims

- Keep in mind that the emotional impact of the assault may not be felt by older victims until after the exam when they are alone and become aware of their physical vulnerability, reduced resilience, and mortality. Fear, anger, and depression can be especially severe in older victims who are isolated, have little support, and live on a meager income.
- Family members or caretakers may sexually assault their older dependents. Policies should be in place guiding staff on screening and handling situations that are threatening to patients or facility personnel.
- Note that older victims are generally more physically fragile than younger victims and thus may be at risk for tissue or skeletal damage and exacerbation of existing illnesses and vulnerabilities.
- Hearing impairment and other physical conditions attendant to advancing age, coupled with the initial reaction to the assault, may render older victims unable to make their needs known, which could result in prolonged or inappropriate treatment. Do not mistake this confusion and distress for senility.
- Health care personnel should follow facility policies for assessing a vulnerable adult’s ability to consent to the exam and evidence collection, and for involving adult protective services.

- Some older victims may want to talk about their perceptions of the role their age and physical condition might have played in making them vulnerable to an assault. Listen to their concerns and what the experience was like for them. Assure them that it was not their fault they were sexually assaulted. If needed, encourage further discussion on this issue in a counseling/advocacy setting.
- Older victims may be reluctant to report the crime or seek treatment because they fear loss of independence. Although sometimes relatives wish to place older victims in an assisted living situation after an assault occurs, such an action is not always necessary or helpful to a victim's recovery. When a change in living environment is needed, assist victims and their relatives in making plans that maximize independence yet enhance safety.
- Encourage use of follow-up medical, legal, and non-legal assistance. Older victims may be reluctant to seek these services or proceed with prosecution. For example, they may rely on family members for transportation and may not want to burden them by asking to be taken to post-exam follow-up appointments.

Lesbian, Gay, Transsexual, and Bisexual (“LGTB”) Victims

- Allow victims to write in their gender or sex on forms, rather than asking.
- Always refer to victims by their preferred name and pronoun, even when speaking to others. If unsure of what names to call the victims, or what pronouns to use, ask.
- Treat the knowledge that the person is LGTB as protected information subject to all confidentiality and privacy rules.
- Be aware that companions of LGTB victims may not know their gender identities or sexual orientation.

Military Victims

- The military offers victims the option of restricted reporting or unrestricted reporting. Restricted reporting allows a sexual assault victim to confidentially disclose the details of his or her assault to specified individuals and receive medical treatment and counseling without triggering the official investigative process or command notification. Restricted reporting can be voided if the medical facility contacts law enforcement or other professionals other than advocates, chaplains, and military sexual assault response coordinators.
- Exam sites that provide exams for military installations are encouraged to draft Memoranda of Understanding to address such issues as confidentiality and storage of evidence.

Domestic Violence Victims

- Do not negate the possibility that a sexual assault can be a component of domestic violence. Response to sexual assault occurring within a domestic violence context requires understanding of the overlapping dynamics of sexual assault and domestic violence, the complex needs of victims, the potential dangerousness of offenders, the resources available for victims, and adherence to jurisdictional policies on response to domestic violence.

- Procedures should be implemented to maintain safety for the victim. At minimum, a referral to the local domestic violence service organization or hotline should be offered after the initial sexual assault report and examination.

The Special Considerations section of the South Carolina Sexual Assault Protocol was taken in part and adapted, with special permission from *SafeTa Source* (www.safeta.org), from: U.S. Department of Justice (2013). *A National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents* (2nd Edition). Retrieved from <http://www.iafn.org/associations/8556/files/SAFE%20PROTOCOL%202013-508.pdf>

Sexual Assault Forensic Examination

Guidelines for Forensic Evidence Collection in Pediatric Sexual Assault

<p style="text-align: center;">Timeline for Forensic Evidence Collection and Examination</p>	<ul style="list-style-type: none"> • The South Carolina sexual assault evidence collection kit should be performed on a child 10 years of age and younger or on a prepubescent child within 36 hours of the acute sexual assault. <ul style="list-style-type: none"> ➤ Child still requires an emergent exam up to 72 hours from the assault to identify, document and assess anogenital injuries. ➤ Emergency room physician or a Pediatric Sexual Assault Nurse Examiner (“P-SANE”), if available, is to perform the collection. • After 36 hours <ul style="list-style-type: none"> ➤ Only the clothing the child was wearing at time of assault and the linens where incident occurred need to be collected. Notify law enforcement, so they can pursue these articles. ➤ Obtain a Buccal swab from child for DNA identification (see section below).
<p style="text-align: center;">State Mandated Notification of Agencies</p>	<ul style="list-style-type: none"> • Law enforcement in the jurisdiction where the incident occurred. • Local DSS where the child resides, if alleged perpetrator involves parent/legal guardian or if parent/legal guardian’s actions have resulted in the sexual assault allegation, i.e. failure to protect child.
<p style="text-align: center;">Other Agencies</p>	<ul style="list-style-type: none"> • Sexual Assault Victim Advocate Services
<p style="text-align: center;">Parent/Guardian Interview</p>	<ul style="list-style-type: none"> • If more than one caregiver present, interview each separately. Ask the following questions: <ul style="list-style-type: none"> ➤ When did you first become aware of the incident? ➤ What did child say happened? ➤ To whom did child make disclosure? ➤ What prompted the disclosure (circumstances)? ➤ What was parent’s reaction to disclosure? ➤ What follow-up questions did parent ask the child? ➤ Who is the alleged perpetrator and what is their relationship to the child? ➤ What terms does the child use for genitalia? ➤ Obtain a complete genitourinary medical history.
<p style="text-align: center;">Child Medical History</p>	<ul style="list-style-type: none"> • It is recommended that the child interview be conducted by a trained Forensic Interviewer due to the varying cognitive developmental stages of the prepubescent child. • In the event the child spontaneously starts narrating the incident: <ul style="list-style-type: none"> ➤ Do not interrupt the child. ➤ Leave verification of details for forensic interview. ➤ Document the child’s statements verbatim rather than the examiner’s interpretation of the child’s statements. ➤ Document child’s demeanor and changes during the statement. ➤ Obtain a complete genitourinary medical history.

<p style="text-align: center;">Evidence Collection</p>	<ul style="list-style-type: none"> • Speculum examination is not indicated on a prepubescent female child unless acute anogenital bleeding is present. <ul style="list-style-type: none"> ➤ In these situations, examination under anesthesia is indicated and medical treatment is done in conjunction with evidence collection. • Collecting swabs and smears should be guided by the history. <ul style="list-style-type: none"> ➤ If indicated, examiner may gently swab with a cotton-tipped applicator, moistened in non-bacteriostatic sterile water, the vulva, inguinal creases, perineum, and/or medial aspect of upper thighs. • Bite Mark Evidence Collection <ul style="list-style-type: none"> ➤ If the child has not bathed or bite mark has not been washed, collect saliva specimen by swabbing with two cotton-tipped applicators using the double swab technique. <ul style="list-style-type: none"> ▪ First swab is moistened with non-bacteriostatic sterile water and rubbed over the skin using moderate pressure and circular motion. Second swab is used dry repeating this motion. • Do not collect plucked/pulled scalp hair from prepubescent child. <ul style="list-style-type: none"> ➤ Scan the child/adolescent’s body with an alternate light source with an orange filter and swab any area of fluorescence. • Swab any skin surface showing dried or moist secretions at unaided visual inspection even if negative fluorescence
<p style="text-align: center;">Buccal Swab Collection for DNA Identification</p>	<ul style="list-style-type: none"> • No Blood Standard indicated • If oral-genital contact suspected, first obtain oral specimen by swabbing between gums and lips, tonsillar pillars and under tongue using two sterile cotton applicators. • Then acquire Buccal Standard as follows: <ul style="list-style-type: none"> ➤ Child cannot eat or drink for at least 30 minutes prior to collection. ➤ Child is to rinse mouth thoroughly and wait 15 minutes before obtaining sample. ➤ Using 2 sterile cotton-tipped applicators, rub inside of the cheek 10 times with an up and down motion.
<p style="text-align: center;">STI Screening and Treatment</p>	<ul style="list-style-type: none"> • Sexually transmitted infection (“STI”) screening in a prepubescent child after single acute sexual assault is not recommended, unless there are signs of infection such as: <ul style="list-style-type: none"> ➤ Presence of purulent vaginal/penile (urethral) discharge ➤ Genital vesicles or ulcers ➤ Genital warts; OR ➤ Child has been abused for an extended period of time and now presents for an acute assault • If any of the above scenarios are present, obtain a dirty catch urine sample and send for N. gonorrhoea and C. trachomatis Nucleic Acid Amplification Testing (APTIMA Combo 2 or ProbeTec ET). <ul style="list-style-type: none"> ➤ Presence of an STI in a prepubescent child is forensic evidence of sexual abuse. Cultures or a second confirmatory NAAT must be obtained prior to use of antibiotics. • In a prepubescent child, post-exposure prophylaxis and presumptive treatment after acute sexual assault is not indicated.

<p style="text-align: center;">Referrals</p>	<ul style="list-style-type: none">• All children initially seen for a forensic evidence collection at a local hospital Emergency Department or by a P-SANE require referral to the local Children’s Advocacy Center facility within 2 weeks of the acute incident for:<ul style="list-style-type: none">➤ Medical follow-up with Child Abuse Pediatrics healthcare provider➤ Forensic interview➤ Mental health assessment/counseling➤ STI assessment and/or follow-up• For a listing of Children’s Advocacy Centers, please refer to www.sccamrs.org
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Guidelines for Forensic Evidence Collection in the Pubescent Child and Adolescent after Acute Sexual Assault

Timeline for Forensic Evidence Collection and Examination	<ul style="list-style-type: none"> • The South Carolina sexual assault evidence collection kit should be performed in a pubescent child 11 to 17 years of age within 72 hours of the acute sexual assault. • Emergency room physician or a sexual assault nurse examiner, if available, is to perform the collection.
Mandated Notification of Agencies	<ul style="list-style-type: none"> • Law enforcement in the jurisdiction where the incident occurred. • Local DSS where the child/adolescent resides, if alleged perpetrator involves parent/legal guardian or if parent/legal guardian's actions have resulted in the sexual assault allegation, i.e. failure to protect child/adolescent.
Other Agencies	<ul style="list-style-type: none"> • Sexual Assault Victim Advocate Services
Adolescent Medical History	<ul style="list-style-type: none"> • Use open-ended (non-leading) questions and encourage free narrative. • Document questions asked and child/adolescent's statements verbatim. • Obtain a genitourinary medical history. • Document demeanor during statement.
Evidence Collection	<ul style="list-style-type: none"> • Clothing: Collect if child/adolescent has not changed clothes or bathed. Otherwise notify law enforcement to pursue these articles at child/adolescent's residence or site of assault. • Scan the child/adolescent's body with an alternate light source with an orange filter and swab any area of fluorescence. <ul style="list-style-type: none"> ➢ Swab any skin surface showing dried or moist secretions at unaided visual inspection even if negative fluorescence. • Fingernail scrapings: Collect if child/adolescent indicates he/she scratched the alleged perpetrator or fingernails show foreign material. • If pubic hair present, perform pubic hair combing. Do not pluck/pull hair. • Collect genital (vaginal and/or cervical specimens) and rectal swabs and smears. • Collect oral swabs, if history of oral-genital contact within 24 hours of assault. • If postpubertal/postmenarcheal adolescent (Tanner 4 and above), consider speculum examination for: <ul style="list-style-type: none"> ➢ Inspection for vaginal injury or bleeding ➢ Collection of vaginal swabs • Bite Mark Evidence Collection: collect saliva specimen by swabbing with two cotton-tipped applicators using the double swab technique. <ul style="list-style-type: none"> ➢ First swab is moistened with non-bacteriostatic sterile water and rubbed over the skin using moderate pressure and circular motion. Second swab is used dry repeating this motion.

<p>Buccal Swab Collection for DNA Identification</p>	<ul style="list-style-type: none"> • No Blood Standard indicated • If oral-genital contact suspected, first obtain oral specimen by swabbing between gums and lips, tonsillar pillars and under tongue using two sterile cotton applicators. • Then acquire Buccal Standard as follows: <ul style="list-style-type: none"> ➢ Child/adolescent cannot eat or drink for at least 30 minutes prior to collection. ➢ Child/adolescent is to rinse mouth thoroughly and wait 15 minutes before obtaining sample. ➢ Using 2 sterile cotton-tipped applicators, rub inside of the cheek 10 times with an up and down motion.
<p>Laboratory Studies</p>	<ul style="list-style-type: none"> • Urine pregnancy test, and • Toxicology screening, if drowsiness, confusion, memory loss or impaired motor skills is present. <ul style="list-style-type: none"> ➢ If ingestion of the drug occurred within last 24 hours, collect: <ul style="list-style-type: none"> ▪ 10 ml of blood collected in gray-top tube ▪ 30 to 50 ml of urine ➢ Collect only a urine specimen if 24 hours have passed from the ingestion but still within a 72-hour time frame.
<p>STI Testing and Prophylaxis/Treatment</p>	<ul style="list-style-type: none"> • Request a Nucleic Acid Amplification Test for N. gonorrhea and C. trachomatis (PCR, TMA or SDA) on a dirty catch urine specimen (10-30 ml). • RPR • HIV • Check immunization status for Hepatitis B • STI prophylaxis or presumptive treatment is recommended after sexual assault and acceptable <u>after testing is completed.</u> <ul style="list-style-type: none"> ➢ For STI treatment guidelines, see the Center for Disease Control and Prevention website http://www.cdc.gov/std/treatment/
<p>Emergency Contraception</p>	<p>The standard of care is to discuss <u>and</u> offer emergency contraception.</p> <ul style="list-style-type: none"> • Plan B One Step <ul style="list-style-type: none"> ➢ 1.5 mgs tablet orally within 72 hours of the sexual assault, best if within 24 hours. <ul style="list-style-type: none"> ▪ If vomiting occurs within 2 hours, repeat dose.
<p>Referrals</p>	<ul style="list-style-type: none"> • If initially seen for a forensic evidence collection at a local hospital Emergency Department or by a Pediatric/Adult Sexual Assault Nurse Examiner, a referral is required to the local Children’s Advocacy Center facility within 2 weeks of the acute incident for: <ul style="list-style-type: none"> ➢ Medical follow-up with Child Abuse Pediatrics healthcare provider ➢ Follow up with primary care physician if Child Abuse Pediatrics healthcare provider not available ➢ Forensic interview, if indicated ➢ Mental health assessment/counseling, and ➢ STI reassessment and/or follow-up • For a listing of Children’s Advocacy Centers, please refer to www.sccamrs.org

**Guidelines for the Medical Forensic Evaluation and Evidence Collection in the
Competent Adult
(18 years of age and older)**

Standard of Care	<ul style="list-style-type: none"> • All patients should receive a comprehensive medical/forensic evaluation by a Sexual Assault Nurse Examiner (SANE) within 72 - 120 hours after a sexual assault. If a SANE is not available, an emergency room physician or registered nurse may conduct the medical/forensic evaluation and evidence collection. • Care for sexual assault patients should be provided in a private and safe location. Sexual assault patients should be considered as priority emergency cases. • Advocacy services should be offered to all victims of sexual assault. The decision to accept or decline advocacy services should rest with the victim. • Victims should be able to identify the individual(s) she/he wishes to be present during the examination process. • All victims of sexual assault should be informed of their right to consent or decline to report their sexual assault to law enforcement. The options will be provided and discussed by a community- based advocate unless the victim wishes only to speak with medical personnel. See Appendix A for anonymous reporting requirements for sexual assault. • All victims have the right to consent or decline any portion of the medical forensic evaluation. • Medical treatment for life threatening or serious injuries should always be completed prior to any forensic evidence collection. Best practice includes a SANE being present to act as a resource for victim advocacy and evidence preservation when medical treatment is a priority. • Chain of custody must be maintained to protect the integrity of evidence.
Mandated Notification of Agencies	<ul style="list-style-type: none"> • Mandatory notification of law enforcement only applies to competent patients 18 years of age and older when there is evidence of injury by a gun, or if the patient meets the legal definition of a vulnerable adult. • The patient has the right to choose whether or not she/he would like to report the assault to law enforcement.
Anonymous Reporting	<ul style="list-style-type: none"> • If the patient declines law enforcement involvement, the patient should be given the option of having an anonymous medical forensic evaluation and evidence collection. • Anonymous report medical forensic evaluations for sexual assault use the SLED evidence collection kit. • Anonymous report labeling: DO NOT INCLUDE THE PATIENT’S NAME ON THE OUTSIDE OF THE SLED EVIDENCE COLLECTION KIT. In place of the patient’s name on the outside of the SLED evidence collection kit, use an identifier (label) that will “link” the victim to the SLED evidence collection kit for future reference (e.g., a combination of the patient’s birth date and the last four numbers of the medical record). The identifier (label) is generated by the individual SANE program based on the program’s protocol for generating anonymous SLED evidence collection kit labels.

<p>Other Agencies</p>	<ul style="list-style-type: none"> • Sexual assault victim advocate services should be offered to every victim who presents to an Emergency Room. Local advocacy, whether it be sexual and/or domestic violence services and/or shelter resources should be identified in every community. State advocacy organizations should be identified and may include: <ul style="list-style-type: none"> ○ South Carolina Coalition Against Domestic Violence and Sexual Assault (“SCCADVASA”) ○ South Carolina Victim Assistance Network (“SCVAN”) ○ South Carolina State Office of Victim Assistance (“SOVA”) ○ Local advocacy and shelter resources
<p>Forensic Evaluation</p>	<ul style="list-style-type: none"> • The medical forensic evaluation consists of obtaining information necessary to make the appropriate decisions regarding medical care, forensic evidence collection and appropriate referral and follow up information. Evidence collection is guided by the patient history. It may include but is not limited to the following: <ul style="list-style-type: none"> ○ Presenting/chief complaint <ul style="list-style-type: none"> ▪ Physical complaints ▪ Psychological/emotional status ▪ Complete review of systems ○ Medical history <ul style="list-style-type: none"> ▪ Medications ▪ Allergies ▪ Recent illness/injuries/surgeries ▪ Immunization status (Tetanus, Hepatitis B, etc.) ○ Gynecological history <ul style="list-style-type: none"> ▪ Last menstrual period ▪ Birth Control method ▪ Number of pregnancies/outcomes ○ Pre Assault Activity <ul style="list-style-type: none"> • Alcohol or drug use ▪ Last consensual sexual activity (date) ○ Post Assault Activity <ul style="list-style-type: none"> • Changed clothing • Showered/bathed • Food and or drink • Alcohol and/or drug use ○ Assault History (detailed account of events in patient’s own words) <ul style="list-style-type: none"> • Date and time of assault • Location of assault (city and/or county) ○ Assailant Information <ul style="list-style-type: none"> • Name, race, age, gender, relationship • Alcohol and/or drug use ○ Assailant Methods <ul style="list-style-type: none"> • Weapons, strangulation, threats, physical assault details ○ Assailant Contacts <ul style="list-style-type: none"> • Genital, oral and non-genital contacts, other acts • Ejaculation • Condom, lubricants, etc.

Timeline for Forensic Evidence Collection & Examination	<ul style="list-style-type: none">• The collection of evidence <u>may</u> be performed up to 120 hours post assault.• It is important to use the forensic evaluation as <i>the</i> guide in determining the appropriateness of evidence collection, medical treatment, referral and follow up.
Physical Assessment	All victims of sexual assault should receive: <ul style="list-style-type: none">• Vital signs• Head to toe assessment for injuries

Evidence Collection

- State Law Enforcement Division (“SLED”) evidence collection kits should be utilized for evidence collection. All personnel are to wear disposable gloves while handling all potential evidence.
- Non-genital physical exam findings: document the location, size and appearance of any findings that may have resulted from the assault (using a time clock as a reference guide). Diagram findings on a body map.
- Genital physical exam findings: document the location, size and appearance of any findings. Best practice includes colposcopy and/or digital photography to support exam findings.
- Clothing: If the patient has not changed clothes or bathed since the assault, collect clothing that has been in closest contact with the genitalia. Underwear should be collected. Do not routinely collect shoes, belts etc. Do **not** collect outer clothing **unless** torn, stained or damaged in the assault.
- Oral swab: Collect if history of oral genital contact within 24 hours of assault. (Collect prior to collection of buccal swab-see below.) Look for possible injury to the upper palate during collection.
- Buccal swab: Collected from the patient to identify his/her DNA, referred to as “known standard”.
 - Wait at least 10 minutes after eating or drinking to collect.
 - If oral swab indicated, collect first and then have the patient rinse with water and wait at least 10 minutes to collect Buccal swab.
- Suspected body fluid: Swab any areas that the patient indicates may contain the assailant’s body fluid. Document area swabbed and type of suspected fluid on envelope.
 - Scan the patient’s body with an alternate light source with an orange filter and swab any area of fluorescence.
 - Swab any skin surface showing dried or moist secretions at unaided visual inspection even if negative fluorescence.
- Suspected saliva: Swab any areas the patient states she/he has been licked, kissed, bitten and/or sucked. Document area swabbed and type of suspected fluid on envelope.
- Pubic hair combings: perform pubic hair combing. Do not pluck/pull hair.
- Genital exam (speculum exam if indicated):
 - Inspection for genital injuries and/or bleeding.
 - In the female patient collect vaginal, cervical and/or anal swabs and smears per assault history.
 - Identification of semen or discharge in the vaginal vault and collection of samples.
 - In the male patient collect penile, scrotal and anal swabs and smears per assault history.
- Miscellaneous materials: for comparison with debris at crime scene or on assailant’s body. Collect any debris or trace evidence that is found on the patient’s body or clothing. Package in the SLED kit envelope, labeled “Miscellaneous Materials”.
 - Leaves, fibers, hair, etc.
- Evidence is not to be packaged in plastic or airtight containers. Paper bags are to be used for clothing and larger item collection. All evidence must be air-dried.
- Each item collected as evidence must be documented in the patient record.

<p style="text-align: center;">Laboratory Studies</p>	<ul style="list-style-type: none"> • Perform a urine pregnancy test. In some patients a serum pregnancy test may be necessary. • Collect samples for toxicology screening: <ul style="list-style-type: none"> ○ 10 ml of blood collected in gray-top tube (containing sodium fluoride and potassium oxalate). • Collect urine sample if the patient’s history or symptoms are concerning for a drug facilitated sexual assault. Drowsiness, impaired motor skills, confusion, memory loss during the potential time frame of the assault or isolated (“cameo”) memories of sexual assault reported by the patient are potential indicators for toxicology screening. <ul style="list-style-type: none"> ○ If potential ingestion of the drug occurred within the last 24 hours, collect: <ul style="list-style-type: none"> • 10 ml of blood, collected in gray-top tube (containing sodium fluoride and potassium oxalate) • At least 30-50 ml of urine (keep refrigerated) ○ If 24 hours have passed from the potential ingestion but it is still within a 72-hour time frame collect ONLY urine. ○ Submit all toxicology samples in the SLED kit. A biological sample sticker is to be placed on the outside of the SLED kit.
<p style="text-align: center;">Photo-documentation</p>	<ul style="list-style-type: none"> • Informed consent must be obtained from all patients prior to photo-documentation. In emergent cases, when a signature cannot be obtained, consent will be implied. • Photo-documentation should take place prior to any treatment whenever possible without compromising the patient’s medical care (cleaning, suturing, surgery, etc.). • Photograph sequence should begin and end with a photograph of the patient’s name or hospital sticker, marked with the photographer’s initials. • Photographs taken for injury documentation are considered part of the forensic record and should be retained by the agency. • When photo-documentation is performed, there must be a system in place to properly store and maintain security of those pictures.
<p style="text-align: center;">Chain of Custody</p>	<ul style="list-style-type: none"> • Documentation of the items collected as evidence must be in the patient’s forensic record and include: <ul style="list-style-type: none"> ○ Patient’s full name ○ Date and time of collection ○ Identification/description of the evidence ○ Signature of the individual collecting the evidence with the date and time ○ Signature of the individual receiving the evidence with the date and time • Evidence is to be sealed with evidence tape and released to the appropriate law enforcement agency. • See Appendix A for anonymously reported kit chain of custody recommendations.

<p>STI Screening and Prophylaxis</p>	<ul style="list-style-type: none"> • For STI screening and prophylaxis guidelines, see the Centers for Disease Control and Prevention website http://www.cdc.gov/std/treatment/. Best practice is post-assault prophylactic treatment for gonorrhea, chlamydia, trichomoniasis and hepatitis. • Routine screening is not recommended as best practice. <p>If the patient is symptomatic consider:</p> <ul style="list-style-type: none"> ➤ Nucleic Acid Amplification Test (NAAT) for N. gonorrhea and C. trachomatis (PCR, TMA or SDA) ➤ Wet mount or other test for T. vaginalis ➤ RPR ➤ HIV ➤ Check immunization status for Hepatitis B – Consider giving a Hepatitis B shot for unknown status or known “never received” status, without testing. <ul style="list-style-type: none"> • This is considered routine care for victims of sexual assault and should be provided regardless of whether a kit was collected in the presenting facility.
<p>Emergency Contraception</p>	<p>The standard of care is to discuss <u>and</u> offer emergency contraception if applicable.</p> <ul style="list-style-type: none"> • Plan B One Step <ul style="list-style-type: none"> ▪ Given within 72 hours of the sexual assault, best if within 24 hours. ▪ If vomiting occurs within 2 hours, repeat dose. ▪ In circumstances where offering emergency contraception is not acceptable with your belief system or that of the institution’s, then arrangements/referrals should be made to provide the patient this option.
<p>Referrals</p>	<ul style="list-style-type: none"> • Follow-up information and/or referrals may include but is not limited to the following: <ul style="list-style-type: none"> ○ Medical follow-up (pregnancy or STI testing, injuries, or new physical complaints). ○ Sexual assault advocacy agencies (crisis counseling, self-help groups, safety planning, or Orders of Protection). ○ SOVA (future crime victim compensation).

Community-Based Sexual Assault Victim Advocate **Recommended Protocol**

The term “community-based advocates,” including sexual assault victim advocates, refers to victim advocates who work for private, autonomous, often non-profit agencies within the community and receive extensive training and continuing education on serving survivors of sexual violence. Community-based advocates work without agenda to serve the victim and his/her family members, when circumstances allow the advocate to work with both. Otherwise, the community-based advocate serves the victim. Victims of Crimes Act (“VOCA”) and VAWA-funded advocates and volunteers cannot serve known perpetrators of sexual or domestic violence, and can also not serve those that are incarcerated. In such instances, the responding advocate will contact the Hotline and request an eligible advocate for accompaniment, if available.

The primary objectives for a community based sexual assault victim advocate in any sexual assault case are as follows:

1. Accompany the survivor and his/her family members during the hospital/acute sexual assault center (“ASAC”) visit from a non-judgmental and victim-centered perspective;
2. Advocate for the survivor’s interests and rights;
3. Maintain survivor confidentiality (communications with community-based advocates have qualified privilege);
4. Provide the survivor and his/her family members information about medical, legal, and law enforcement procedures;
5. Provide crisis intervention to the survivor and his/her family members; and
6. Promote the responsiveness of individual service providers.

Hotline Response

Sexual assault service centers operate a 24-hour hotline answered by a live person, typically trained advocates (who receive a comprehensive 25-hours training initially and four hours of continuing education annually, concerning topics such as sexual assault and the trauma of rape, crisis intervention techniques, hospital/ASAC accompaniment procedures from a victim-centered perspective, law enforcement and criminal justice perspectives, safety planning, working with males, LGTB, individuals with disabilities, the elderly, and collecting data) or dispatch operators, who will follow procedure for dispatching a trained advocate to the hospital/ASAC call per jurisdictional procedures. If a survivor contacts the hotline directly citing an assault within 120 hours*, the advocate will explain the benefits of the survivor seeking medical treatment immediately and the importance of not showering, brushing his/her teeth, or eating and drinking if they have any intention to file a report with law enforcement in an effort to preserve evidence for possible collection at the hospital/ASAC. [Note: Some hospitals operate on a 72 hour timeline. Check your policy

for clarification.] A trained advocate from the sexual assault service center will respond to any hospital/ASAC accompaniment requests from the victim, family member, medical personnel, or law enforcement within one hour.

Hospital/ASAC Response

At the hospital/ASAC, the community-based advocate will inconspicuously indicate to hospital/ASAC personnel that he/she is with the local sexual assault service center. Advocate will knock on survivor's door and request entry. The community-based advocate will introduce himself/herself and hand the survivor a standard packet of information on the local sexual assault service center, emergency numbers, the South Carolina Victim Bill of Rights, and a list of resources. The community-based advocate will also ask the survivor permission to remain in the room and again for the examination and evidence collection kit. If survivor does not want the community-based advocate present during all or part of the hospital/ASAC visit, the advocate will wait outside of the exam room until the survivor requests the advocate's presence or is discharged from the hospital/ASAC. If the survivor is abusive towards the advocate, the advocate should remain outside of the exam room until the survivor requests the advocate's presence and agrees to discontinue the abusive behavior.

The community-based advocate's primary role is to believe the survivor and his/her story, to advocate for that survivor with medical, law enforcement, and other systems, and to maintain the survivor's right to confidentiality. The advocate will discuss the short term and long term impact of sexual assault, gather and evaluate information during survivor contact, provide crisis intervention from a non-judgmental and victim-centered perspective, assist the survivor in identifying support systems, provide proper referrals (including special considerations for individuals who live in rural communities, Latinas, males, individuals who identify as gay, lesbian, bisexual, or transgender, the elderly, individuals with disabilities, and institutionalized individuals), provide information about legal procedures and victim's assistance programs, provide information to assist the survivor in making informed decisions about medical care and the preparations needed, provide information about medical care/concerns, including assistance with needed follow-up and support during medical exams, provide information about services available for sexual assault, including shelter and counseling, and assist the survivor in creating a safety plan, if necessary. The advocate will also provide information about the local sexual assault service center's follow up services to include crisis intervention, therapeutic counseling, assistance with filing for orders of protection/restraining orders, explaining the court process, assistance with completing victim assistance forms, personal advocacy, and law enforcement/court accompaniment.

The community-based advocate will not ask the survivor questions about the assault at any time. The advocate will only share information about the case with law enforcement or medical responders at the request of the survivor or in regard to the survivor's immediate safety, with exceptions noted in the Confidentiality Section. If law enforcement is not

already involved, the advocate will explain survivor's right to an anonymous kit (See Appendix A entitled South Carolina Act 59: VAWA Reauthorization for complete details regarding reporting of sexual assault incidents anonymously and procedure for follow up contact).

The advocate does not assist with the medical procedures or touch anything related to the sexual assault evidence collection kit. The advocate can turn on/off the lights for medical staff, bring pages of labels, or leave the room to get medical equipment, food, or clothing for the survivor. The advocate cannot spend money on the survivor for food or beverage, but can ask medical staff to order food or beverage for the survivor. The community-based advocate also cannot provide transportation to survivors, but can assist in coordinating transportation with law enforcement or with sexual assault service center funds, if available. If the survivor is discharged before receiving medical care, the advocate will encourage and direct the survivor to another medical location. The advocate should also assist the medical staff in finding appropriate shelter for the survivor, if necessary. In consideration of the survivor, the advocate should not eat or drink in the presence of the survivor if the survivor is being encouraged not to eat or drink prior to the forensic exam; the advocate should not talk or text on his/her cell phone or read a book if the survivor is awake; and the advocate should not leave the survivor unaccompanied for extended periods of time (if the advocate must leave the exam room to assist the survivor or for personal reasons, the advocate should not leave his/her personal items, such as a purse or cell phone, in the room). If a second survivor presents at the hospital/ASAC, the advocate will request another advocate be called in.

The community-based advocate will remain at the hospital/ASAC with the survivor until the survivor is discharged from the hospital/ASAC and has left the premises with three notable exceptions.

1. If an advocate must leave the hospital/ASAC before the survivor, the advocate will contact the hotline and request a replacement advocate. This should be done *only under very unusual circumstances*.
2. If the survivor has extensive injuries that must be treated before the sexual assault evidence collection kit is performed or is temporarily unable to consent to medical treatment as a result of severe drug or alcohol intoxication, the advocate can leave and request that ER staff call for another advocate when the survivor is being prepared for the evidence collection process. The advocate should contact the hotline and request approval from the rape crisis service center staff.
3. If the survivor does not want a male advocate, a female advocate can be substituted. The male advocate should contact the hotline and request a replacement, female advocate.

The community based advocate will complete an advocate report form ("ARF") at the conclusion of all hospital/ASAC accompaniments and submit to the rape crisis service center within 24 hours or the next business day of the accompaniment. The ARF includes

date, time range, and location of hospital/ASAC accompaniment, contact information for survivor and family/friends, information on the perpetrator (if available), contact information for medical/law enforcement personnel, any incident report/anonymous report identification numbers, services provided by the advocate, any referrals provided, and a brief overview of the case (if known) to include incident date, location, type, and any secondary conditions such as domestic violence, stalking, harassment, homelessness, or previous adult survivor of child sexual abuse. The ARF will also indicate survivor's request for follow up and how/when that follow up should be conducted with the least impact to survivor.

The community-based advocate will provide applicable referrals, to include but not limited to the local domestic violence shelter, child advocacy center, local college/university sexual assault assistance, and the sexual assault service center's hotline number. If survivor does not live in the advocate's service area, the advocate will provide a referral to the appropriate sexual assault services agency or to the Rape, Abuse, and Incest National Network ("RAINN") hotline (if out of state). No matter the survivor's residence, the survivor will receive follow up from sexual assault service center, if he/she requests it.

Confidentiality

Sexual assault service centers are committed to respecting the privacy and dignity of each person served and to holding in confidence all client-identifying information obtained in the course of the helping relationship to encourage clients to report. The survivor owns the privilege of confidentiality and makes the decision regarding all disclosures of information. Client-identifying information obtained in the course of the helping relationship will not be shared with others outside of the sexual assault services agency without the survivor's consent, with five notable exceptions as set forth below:

1. Mandated reporting;
2. Situations involving life-saving or life-threatening emergencies;
3. A survivor's indication that he/she intends to commit a crime;
4. Routine contact during a hospital/ASAC accompaniment with law enforcement and medical personnel; and
5. Court-ordered release of documents (qualified privilege).

Sexual assault service centers are mandated reporting agencies under South Carolina Code of Laws § 20-7-510(B). Advocates must report information received in their professional capacity that gives them "reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect." For unmarried children ages 15 years or younger, this includes ALL forms of sexual conduct, physical abuse, or child neglect or maltreatment. For children 16 or 17 years old, *consensual* sexual conduct does not have to be reported, although assault must be reported. *Survivors over the age of 18 have the right to decide for themselves whether they will report their assault to law enforcement*, unless the adult survivor is developmentally delayed or mentally incoherent to the extent that he/she is not able to protect himself/herself from harm.

Advocates must report abuse/assault by a parent, guardian, caretaker, institution, or someone acting in the role of a parent to the county's Department of Social Services. Advocates must report abuse/assault by anyone other than a parental figure to law enforcement in the jurisdiction where the assault took place. If an advocate believes he/she has or may have a mandated reporting situation, the advocate should contact the hotline to request the assistance of a staff member from the sexual assault service center. The staff member will make the report to DSS or law enforcement, as appropriate and if deemed necessary.

Community-based advocates sign a confidentiality agreement indicating their understanding of the confidentiality policy and renew this document biannually.

Law Enforcement Recommended Protocol

Purpose

The primary objectives for a law enforcement officer in any sexual assault case are to identify information that supports the facts of the case, identify and preserve evidence, identify the offender, and develop probable cause to support the arrest and prosecution of the offender. Law enforcement officers should use a victim-centered approach to achieve these objectives.

Since many sexual assault victims will experience their first real contact with a law enforcement officer following the assault, the law enforcement officer should be ever-cognizant of the emotional wellbeing of the victim and should take all reasonable steps to alleviate the negative impact of the investigative process.

The officer(s) should remain mindful that law enforcement is but one component of a multidisciplinary team such as the Sexual Assault Response Team (SART). The team concept is crucial in ensuring a victim-centered approach to the investigation.

The victim-centered approach means that the needs and interests of victims/survivors are of central concern to sexual assault response teams and first responders as they respond. For a law enforcement officer this means:

- A. Enhancing cooperation between the law enforcement agency and community organizations that may assist the victim(s).
- B. Giving victims choices and options whenever possible.
- C. Demonstrating sensitivity by using non-judgmental questions, comments, and body language. For example, instead of “Tell me about your rape,” ask, “What are you able to tell me about the assault?”
- D. Providing the opportunity for the victim to tell what happened. Instead of asking “What were you doing out so late?” ask the victim to “describe what happened before the assault.”
- E. Establishing and maintaining liaisons with area law enforcement commands and crime victim liaisons and specialized units such as sexual assault programs, advocacy centers, and community medical/forensic services.
- F. Facilitating communication within the law enforcement agency and among members of the multidisciplinary team (SART).
- G. Maintaining respect for the victim/survivor in interdisciplinary communication.

- H. Avoiding premature judgments. Sexual assault cases often seem counterintuitive at first. Victims may wait days, weeks, months, or even years before reporting their assault. The victim may seem inappropriately calm and may lack signs of a physical struggle (e.g., cuts, bruises, or abrasions). It is important to withhold judgments about the case and the victim until sufficient evidence is collected. If you believe that a victim may be making a false statement or report, remain respectful.
- I. Using professional discretion concerning photos of victim's injuries, crime scenes, and videotapes.

Policy

A victim's distress may create an unwillingness or psychological inability to assist in the investigation. Officers and investigators play a significant role in both the victim's willingness to cooperate in the investigation and ability to cope with the emotional and psychological aftereffects of the crime. Therefore, it is especially important that these cases be handled from a nonjudgmental perspective so as not to communicate in any way to a victim that the victim is to blame for the crime.

Procedures

A. Dispatcher or Call-Taker Response

1. Due to the trauma of a sexual assault, a victim reaching out for assistance may be in crisis. The victim's behaviors may actually be symptomatic of this condition and can range from hysteria, crying, and rage to laughter, calmness, and unresponsiveness. There is no one typical reaction, so it is important to refrain from judging or disregarding any victim.
2. When a caller reports a sexual assault, communications personnel shall follow standard emergency response, to include ensuring the victim's safety, evaluating and properly prioritizing the call, securing medical assistance, inquiring about a suspect's current location, and obtaining detailed information to identify the suspect. Information about the relationship with the victim, weapon use, and history of violence shall also be obtained.
3. To ensure critical evidence is not lost, communications personnel shall:
 - a. Ask whether the victim has bathed, douched, urinated, or made other physical changes and advise against the victim doing so;
 - b. Ask the victim to use a clean jar to collect the urine should the victim have to urinate;

- c. Let the victim know that other evidence may still be identified and recovered so the crime should still be reported if the victim has bathed or made other physical changes;
 - d. Preserve the communications tape and printout for the investigation; and
 - e. Explain to the caller that these questions will not delay an officer's response to the caller's location.
4. Use professional discretion in relaying confidential information.

B. Initial Officer Response

1. Emergency Response

As part of the emergency response, officers shall:

- a. Make contact with the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed;
- b. If the officer responds to a call from the hospital, try and establish an incident scene location, and then relay this information to other officers who can then secure the scene until an investigator can determine what evidence should be sought;
- c. Evaluate the scene for people, vehicles, or objects involved as well as possible threats;
- d. Relay all vital information to responding officers and supervisors, including any possible language barriers;
- e. Secure the crime scene to ensure that evidence is not lost, changed, or contaminated;
- f. Request assistance from detectives, field evidence technicians, crime laboratory personnel, and the prosecuting attorney when appropriate; and
- g. Begin a search for the suspect when appropriate.

2. Assisting the Victim

As part of the emergency response, officers shall:

- a. Show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport;
- b. Determine special needs of the victim, if any; for example, are there language barriers (S.C. Code § 17-1-50); does the victim have children that need to be cared for or does the victim have a disability for which he/she needs immediate assistance;
- c. Inform the victim that an officer of the same sex will be provided if desired and available;
- d. Contact a sexual assault victim advocate as soon as possible to provide assistance throughout the reporting and investigative process. Advise the victim of his/her rights as a crime victim and the availability of and contact information for support services (S.C. Code § 16-3-1520);

- e. Supply victims of sexual assault with the phone number for the RAINN Hotline, 1-800-656-HOPE and/or victim's advocate. Operators at this hotline connect the caller with the sexual assault services agency closest to the victim's location;
- f. Request a response from investigations: clearly explain his or her role to limit the preliminary interview so that the victim is not then asked the same questions by a detective;
- g. Be aware that a victim of sexual assault may bond with the first responding officer, so it is important to explain the role of the different members of the sexual assault response team and help with transitions through introductions; and
- h. Record observations of the crime scene, including the demeanor of the suspect and victim, and document any injuries or disheveled clothing.

3. Evidence Collection Issues

- a. Officers shall request assistance or direction from crime scene technicians and forensic scientists.
- b. Responding officers shall protect the integrity of the evidence and guard the chain of custody by properly marking, packaging, and labeling all evidence collected, including:
 - (1) Clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals (such as undergarments, pants, and shorts); and
 - (2) Photographs and/or videotape of the victim's injuries (if any), the suspect's injuries (if any), and the crime scene prior to processing, keeping in mind:
 - When photographing a victim, be sensitive to the location of the injuries on the victim's body;
 - Summon an officer of the same sex as the victim;
 - Photograph victims using drapes and other techniques that help to maintain the victim's dignity;
 - Instruct medical personnel to take photographs of the genitalia when needed; and
 - (3) Diagram of the crime scene(s).
- c. When an investigating officer suspects that a sexual assault may have been facilitated with drugs or alcohol, he or she should determine the time of the incident as soon as possible in order to make decisions regarding the collection of urine and blood samples. Ensure that urine and blood samples within 24 hours after an assault or urine sample after 24 hours are obtained by a health professional and preserved (Refer to FNE/ SANE protocol).
- d. Officers shall introduce the need for a medical examination to the victim, explaining the importance of the examination to investigative and apprehension efforts as well as to the victim's well-being. Officers shall not coerce victims to go to the hospital or to provide samples for drug screening (a SANE or FNE should be utilized if available). Advise the victim that

he/she is not responsible for the cost of the forensic portion of the examination (S.C. Code § 16-3-1350(A)).

- e. DNA evidence plays a crucial role in the sexual assault investigation. In addition to the victim's and suspect's bodies and clothing, there are many other potential sources of evidence such as condoms, sheets, blankets, pillows, and bottles that may contain biological evidence such as blood, sweat, tissue, saliva, hair, and urine. To properly collect DNA evidence, officers shall:
 - (1) Use sterile gloves and change as needed;
 - (2) Use sterile swabs, papers, solutions, and tools;
 - (3) Package evidence in individual envelopes;
 - (4) Avoid touching the area where potential DNA evidence may exist;
 - (5) Avoid talking, sneezing, and coughing over evidence;
 - (6) Air dry evidence before packaging; and
 - (7) Put evidence into new paper bags or envelopes, not plastic.
- f. The sexual assault evidence kit shall be accepted from the medical staff after it has been properly sealed and labeled.
 - (1) The kit will contain whole blood that requires that the kit be placed and logged into an evidence refrigerator as soon as possible. The kit may also contain a urine sample for toxicology testing. If it does, the urine sample shall also be refrigerated;
 - (2) Investigating officers or supervisors shall have access to the evidence refrigerator after regular business hours, on weekends, and on holidays; and
 - (3) The kit shall not be allowed to freeze or be exposed to heat such as being near a car's interior heater or in the trunk.

4. Stranger, Non-Stranger, and Spousal Assaults

Responding officers shall be familiar with common defenses to the charges of sexual assault.

a. Stranger Assault

Evidence in stranger sexual assaults often centers on a question of identification pending the processing of DNA evidence. Therefore, investigative strategies must remain flexible. An identity defense will typically include latent fingerprints, lineups, DNA, and trace evidence.

b. Non-Stranger Assault

The majority of non-stranger sexual assaults result in a consent defense. Thus, evidence of particular importance includes:

- (1) Evidence of physical or verbal resistance on the part of the victim;
- (2) Evidence of genital or non-genital injury;

- (3) Detailed account of the victim's thoughts and feelings during the assault;
- (4) Information regarding the suspect's size and strength in comparison to the victim's;
- (5) Information regarding the environment in which the assault took place (such as isolation, soundproofing); and
- (6) Information regarding the victim's behavior after the assault, including posttraumatic stress.

c. Spousal Assault

In the event of spousal sexual assault, explain to the victim that they do have the right to refuse unwanted sexual activity, but it must be reported to law enforcement within 30 days (S.C. Code § 16-3-658).

5. Identify and Locate Witnesses and Suspects

Based on the victim's emotional and physical state, questions of the victim concerning the assault and description and location of the suspect shall be limited. Responding officers must identify and interview any potential witnesses, bearing in mind that there may be multiple crime scenes. It is especially important that the first person the victim told about the sexual assault be identified and interviewed.

6. Documentation

Any officer who interviews a witness or a suspect, identifies evidence, or processes a crime scene shall write his or her own report detailing the actions he or she took. These supplemental reports shall be compiled by the first responding officer for the follow-up investigation regardless of whether an arrest is made.

C. Preliminary Victim Interview

Sexual assault investigations typically include both a preliminary and subsequent in-depth interview with the victim. The preliminary interview is intended to establish whether a crime has occurred. In the initial response, the officer shall first establish the elements of the crime(s) and identify any and all witnesses, suspect(s), evidence, and crime scene(s). The officer must understand the report indicates that the preliminary interview is **NOT** intended to be a comprehensive or final interview. Additional interviews will be needed as the investigation develops. Preliminary interviews with juvenile victims of sexual assault should be minimal factual interviews.

1. Involve a Victim Advocate

Every effort shall be made by the investigating officer to contact a community-based victim advocate (sexual assault victim advocate) and a system-based advocate as soon as possible. If the victim declines assistance from an advocate, the investigator shall provide the victim with written referrals for community resources specifically designed to help victims of sexual assault.

2. Victim Interview Protocol

- b. Based on the length of time between the assault and report of the crime and the individual's personal history, the victim may be in crisis and experiencing posttraumatic stress disorder or rape trauma syndrome and exhibiting a range of behaviors that will likely change over time.
- c. The victim's response to the trauma of a sexual assault shall not be used in any way to measure credibility. When drugs or alcohol are involved, the victim may have limited recollection or be unable to give a complete account of the crime. Not knowing the details of what happened may exacerbate the trauma experienced by the victim.
- d. Interviews shall be conducted promptly if the victim is coherent and able to give consent for the interview.
- e. Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings.
- f. Investigators shall:
 - a. Remain patient and maintain an open mind while listening to the victim's account;
 - b. Remember that victims may struggle with gaps in memory;
 - c. Avoid leading questions while conducting the interview;
 - d. Use simple terminology appropriate to the victim's age, sophistication, and intelligence; and
 - e. Avoid using jargon or police, medical, or legal terms.
- g. Prior to initiating the interview, the officer shall:
 - a. Interview any witness who might have seen or spoken with the victim before, during, or after the assault;
 - b. Accommodate the victim's request for a rape crisis advocate or support person whenever possible;
 - c. Take responsibility for excluding a support person when appropriate and offer the victim and support person an explanation;
 - d. Secure a private location for the interview that is free from distractions;
 - e. Express sympathy to the victim and an interest in the victim's well-being; and
 - f. Inform the victim of the need and importance of full disclosure of any and all recent drug use.
- h. During the interview, the officer shall:
 - a. Obtain contact information for the victim, including temporary accommodations;
 - b. Explain the nature of the preliminary interview and the need for follow-up contacts;

- c. Ask victims to explain what they remember and how they felt;
- d. Revisit the possibility of a support person for victims who initially declined the offer; and
- e. Explain that other professionals such as forensic examiners, detectives, evidence technicians, and prosecutors may have additional questions.

- i. At the conclusion of the initial interview, the officer shall:
 - (1) Give the victim the investigator's contact information and case number;
 - (2) Encourage the victim to contact the investigator with any additional information or evidence;
 - (3) Remind the victim that visible evidence of injury may appear later, and to contact the investigators for additional photographs or other documentation;
 - (4) Ensure that requests for victim protection orders are made where indicated;
 - (5) Provide written referrals for victim service organizations (S.C. Code § 16-3-1520);
 - (6) Provide transportation when reasonably possible; and
 - (7) Inform the victim about next steps in the investigation.

3. Protecting Victim Rights

- a. Throughout the investigation of the case, officers shall protect the confidentiality of the victim's information to the maximum extent possible by law and policy.
- b. In addition, victims should be provided information on:
 - (1) The rights of a crime victim (S.C. Code § 16-3-1520);
 - (2) How to contact police if harassed or intimidated by the suspect(s);
 - (3) What information is part of the public record and what is confidential; and
 - (4) The possibility of media coverage and information the media has access to regarding sexual assault crimes.

4. Arrest and Prosecution Decisions

In the immediate aftermath of a sexual assault, a victim should not be expected or encouraged to make decisions regarding the investigation or charges related to the offense. Once a victim impact statement is introduced to the victim the victim may have questions regarding whether they should/should not be present at future hearings. Every effort should be made to answer the victim's questions without giving them advice as to what they "should" do.

5. Delayed Reports

Delayed victim reporting is common in sexual assault cases due to the trauma and fear experienced by victims and should not deter a thorough investigation. Officers shall inquire about and document the reasons for a delayed report, while avoiding questions that could be perceived as judgmental or accusatory.

D. Forensic Examinations for Victims of Adult Sexual Assault

Victim-centered care is paramount to the success of the forensic examination of victims of sexual assault. A timely, professional forensic examination increases the likelihood that injuries will be documented and evidence collected to aid in the investigation and prosecution of sex offenders. Evidence may normally be collected up to 120 hours after the assault, but evidence can be gathered and injuries documented beyond that time, especially if the victim is injured, bleeding, or experiencing pain.

1. Investigating Officer Actions

- a. Ask the victim whether there is anyone who should be called or notified, and facilitate this contact;
- b. Address any special needs of the victim, such as communication or mobility, and notify the victim advocate of the special need;
- c. Explain the purpose of the forensic examination and its importance to the investigation and provide the victim with information on the procedure;
- d. Inquire whether the victim will consent to a forensic examination;
- e. Inform the victim of the right to decline any or all parts of the examination;
- f. Explain to the victim the potential consequences if any part of the examination is refused;
- g. Notify a victim advocate to offer the victim support when a forensic examination is to be conducted;
- h. Ensure that the victim has transportation to and from the appropriate facility. Transportation can be provided by law enforcement, family, friends or EMS, and recommend the victim bring a change of clothing to the forensic examination site in the event that his/her clothing is collected for evidentiary purposes;
- i. Seek permission from the victim to collect a urine sample for drug screening; and
- j. Encourage a victim who is unwilling to undergo a forensic exam to get medical attention, including testing for pregnancy and sexually transmitted diseases.

2. Coordination with Forensic Examiner

Responding officers shall coordinate with other professionals such as forensic nurse examiners and criminalists to determine whether a medical forensic examination is indicated.

- a. When a forensic examination is indicated, the investigating officer shall brief the examining nurse or physician about the details of the sexual assault, as they are known at that time;

- b. Officers should not normally be present in the examining room, as the forensic examiner will testify about collection of evidence and the chain of custody;
- c. The nurse or physician shall brief the investigating officer at the conclusion of the examination; and
- d. The police report shall contain a copy of the forensic exam, if available, and a summary of the findings that note significant information or injury. After the examination, all the evidence shall be transferred to the department for storage.

3. Presence of a Victim Advocate

When it is determined that a forensic examination will be conducted, a victim advocate or a support person of the victim's choosing shall be allowed to be present in the room and during the interview, unless it would be harmful to the investigation. The officer shall take responsibility for excluding a support person, when appropriate, and providing an explanation to the victim and the support person.

4. Drug-Facilitated Sexual Assault Considerations

- a. If a drug-facilitated sexual assault is suspected, it is critical to obtain a urine sample from the victim as soon as possible. If it has been less than 24 hours since the time of the assault, also obtain a blood sample in a grey-top tube.
- b. Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and never used to discredit or discourage the victim from reporting the assault. The department priority should be to conduct a thorough investigation of a sexual assault rather than prosecute victims for misdemeanor violations.
- c. Because of the delay in reporting most sexual assaults, laboratories capable of testing urine and blood samples at very low levels for those drugs commonly used to facilitate sexual assault are essential.

5. Reimbursement for the Examination

- a. The cost of the medical forensic exam will not be passed onto the victim of a sexual assault, but through sources of financial support from the State Office of Victims Assistance (S.C. Code § 16-3-1350(A)).
- b. Officers shall not use the state compensation program as means to encourage cooperation from victims.

E. Follow-Up Victim Interview

Prior to a follow-up interview, the investigating officer shall consult with agency personnel who responded to the scene, retrieve communications tapes and printouts, and review all reports. The officer should coordinate with relevant agencies,

assistance organizations, service providers, or sexual assault response professionals to address the needs of the victim and to discuss the best means for keeping the victim informed.

1. Investigative Strategy

In preparing for the interview, the investigator shall develop an investigative strategy based on the nature of the assault and the possible defenses available to the suspect (such as denial, mistaken identity, or consent). This strategy shall guide the questions and other evidence collection efforts. Critical evidence collection efforts include evaluating whether a pretext phone call is appropriate and re-photographing injuries to document changes in visible injuries.

2. Follow-Up Interview Protocol

- a. An in-depth follow-up interview shall be conducted after the victim has been medically examined and treated, and personal needs have been met.
- b. In the event that the victim is still under the influence of drugs or alcohol, has been injured, or as a result of the assault has not slept, and barring exigent circumstances requiring an arrest or identification, the interview shall be delayed.
- c. The interview shall be conducted in a location that is convenient, accessible, and comfortable for the victim. The investigator shall provide or arrange for transportation for the victim when needed.
- d. At the start of the follow-up interview, the officer shall:
 - (1) Discuss the purpose and scope of the interview;
 - (2) Review contact information for both the victim and investigator that may need to be updated;
 - (3) Explain the victim's rights, including confidentiality; and
 - (4) Address arrest decisions including an explanation of the status of the case.
- e. While conducting the follow-up interview, the officer shall:
 - (1) First allow the victim to describe what occurred without interruption;
 - (2) Relay what he or she heard for accuracy, identify new information or developments, and ask questions;
 - (3) Clarify any inconsistencies with earlier accounts of the sexual assault in a non-threatening manner;
 - (4) Document the victim's actions in response to the attack, the victim's state of mind during the attack, specific statements made by the perpetrator, and the nature of any relationship with the suspect and explain the importance of these questions from a prosecutorial standpoint; and
 - (5) Inquire about any circumstances that may indicate the use of a drug to facilitate the sexual assault (such as whether the victim experienced any loss of memory, disorientation, severe illness, or hallucinations); and
 - (6) Assist the victim in developing a safety plan, in the event safety concerns exist, and encourage the victim to call police if the suspect violates any

existing criminal or court orders or if the suspect contacts the victim in any way.

- f. Once a thorough follow-up investigation has been completed, the investigating officer shall:
 - (1) Evaluate impounded evidence and determine which items might have probative value based on the statements and other information;
 - (2) Submit a lab service request such as DNA, biology, trace, or toxicology based on the assessment of the evidence;
 - (3) Present the complete case file including forensic results as soon as available to the prosecuting attorney for review and work with the prosecutor's office to develop the case;
 - (4) Encourage the victim's continued support in the investigation, apprising the victim of future investigative and prosecutorial activities that will or may require involvement; and
 - (5) Familiarize the victim, prior to trial, with the types of defense strategies and inquiries that may be made during cross-examination.

3. When Lacking the Victim's Involvement

The law enforcement agency shall respect a victim's inability, or decision not, to be involved in criminal justice proceedings and always be willing to offer continued assistance and referrals.

4. Polygraph Examinations for Victims

A law enforcement officer, prosecuting officer, or other governmental official may request a sexual assault victim to take a polygraph examination as part of the investigation if the credibility of the victim is at issue. However, the victim/survivor's refusal to take a polygraph examination shall not prevent the investigation, charging or prosecution of the offense, pursuant to §16-3-750.

F. Contacting and Interviewing the Suspect

1. The investigating officer(s) shall follow department procedures on identifying the suspect, conducting the suspect interview, and collecting evidence in a sexual assault investigation; and
2. Involvement of a victim in a pretext phone call to the suspect should take into consideration the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

G. Sexual Assault Forensic Examination for the Suspect

The law enforcement agency will work with other agencies and community organizations to establish protocols regarding where the forensic examination of the suspect will take place, who will pay for it, and what steps will be involved. It is

essential that the victim and suspect examinations must take place in different locations.

1. Protocol for Suspect Examination

- a. Immediately after the preliminary suspect interview, the investigating officer shall determine whether a forensic examination should be obtained for the suspect;
- b. A search warrant must be obtained to collect any evidence from the body of the suspect or even to collect clothing. If the suspect consents to such evidence collection procedures, documentation of voluntary consent shall be provided in the police report;
- c. The investigator shall clearly document the suspect's freedom to decline any part of the examination and to leave at any time; and
- d. First-line officers and supervisors shall be trained to collect cells from inside a suspect's cheek for DNA profiling. Cotton-tipped swabs or other buccal DNA collectors shall be readily available to investigators in the field.

2. Evidence Collection

- a. The forensic examiner shall document the suspect's medical history, document all injuries that are observed, and collect biological and trace evidence from the suspect's body;
- b. If in custody, the suspect shall be given a *Miranda* warning before being asked medical history questions by the forensic examiner or investigator;
- c. If the suspect invokes his right to remain silent, the examiner shall bypass the medical history portion of the examination and continue documenting any visible injury and collecting the appropriate specimens; and
- e. Both the examiner and attending officer shall be prepared to document any spontaneous statements made by the suspect regardless of whether or not the suspect is in custody and whether or not the suspect was provided with a *Miranda* warning.

H. Role of the Supervisor

First-line supervisors shall demonstrate a detailed understanding of victim issues and proper response by subordinates. Supervisors shall:

1. Respond to assist officers investigating felony sexual assaults;
2. Exhibit sensitivity to victims and ensure that victims are dealt with properly by clarifying their expectations of line officers;
3. Assist in locating resources to effectively investigate sexual assaults;
4. Encourage problem-solving partnerships to enhance cooperation between the department and community organizations such as sexual assault services agencies and forensic examination programs using a victim-centered approach;
5. Include victim services information regularly at roll-call;
6. Develop and encourage community partnerships to reduce the risk of sexual assault;

7. Create opportunities for ongoing training to improve the skills needed to properly investigate sexual assault;
8. Work to increase interagency communication between law enforcement and prosecutors to ease the transition for victims moving from the investigation phase to prosecution;
9. Incorporate victim services issues into the evaluations of officers and detectives; and
10. Recognize and reward officers for rendering effective victim services.

I. Blind Reporting

In the aftermath of a sexual assault, a victim may not have the emotional or physical capacity to commit to a full investigation and a court trial. Departments should consider establishing blind reporting systems to allow victims to take the investigative process one step at a time. This will allow time for the victim to establish trust with an investigator and become comfortable with the investigative process.

College and University Property (S.C. Code § 59-154-10(B-D))

- A. All sexual assault reports that occurred on the property of a college or university should be investigated by campus law enforcement, local jurisdiction, and/or SLED.
- B. SLED must be notified of any sexual assaults having occurred on any college or university campus.

Law Enforcement Victim Advocates (LEVA)

The LEVA is a systems-based advocate based in a law enforcement agency, trained and certified to provide reasonable assistance to victims of all types of crime and help them navigate the criminal justice system. The LEVA may be either a sworn officer or a non-sworn civilian employee.

When a sexual assault has occurred, a LEVA may be called on at various stages of the investigation to provide victim services, from immediate crisis intervention to long-term follow-up. The LEVA may help coordinate team response to the victim's needs throughout the criminal justice process.

Initial Response

- A. The LEVA may respond to the **crime scene**:
 1. At the request of a supervisor, dispatch may alert the LEVA when a sexual assault has occurred. Alternatively, first responders or investigator may request the LEVA to respond to the crime scene. Upon arrival, the LEVA will be briefed on the case. The LEVA will assist officers to ensure the victim's immediate safety, and offer emotional as well as practical support to the victim while initial information is gathered.

2. The LEVA may contact friends or family members, at victim's request.
3. The LEVA will determine whether the victim has special needs (e.g. translator, deaf interpreter, assistance for elderly or disabled victim, etc.) and initiate locating special services as required.
4. The LEVA will attempt, as far as possible, to provide the victim privacy at the scene and during initial interview.
5. At the scene, the LEVA will remain calm and reassuring, using non-judgmental language, assuring the victim that she/he is safe now and that law enforcement is there to help.
6. The LEVA may remain with the victim during the initial interview, if the victim wishes or if requested by the officer/investigator.
7. The LEVA may remind the victim that she should not bathe or wash, and that officers will need to collect clothing or other items where evidence may be found. The LEVA should assure the victim that her possessions will be returned to her as soon as possible, and assist in retrieving them at a later date. The LEVA will also advise the victim that some of the items collected may be kept until the case is disposed in court. The LEVA will also advise that some of the items collected may not be in the same condition due to evidence and testing procedures (depending on evidence needed from clothing, it may be cut up or otherwise damaged).
8. The LEVA will explain the law enforcement process to the victim—what the officers are doing and why—and advise her that although the interview and evidence collection may be upsetting or intrusive, they are necessary. The need for evidence to establish victim's non-consent will be key.
9. The LEVA may offer preliminary Victims' Rights information at this stage; however, it is likely the victim will be traumatized and may not absorb the information yet. The LEVA will note that this information must be provided when the victim is receptive to it. If the first responding officer has not already given the victim a written Victim Rights information sheet, including law enforcement case number and contact information, the LEVA should be sure the victim receives this information.
10. If the victim has suffered major injuries, the LEVA will confirm that EMS has been called. Major injuries can be strong evidence that the victim did not consent. However, law enforcement and LEVA will be aware that lack of major injuries does not prove consent.
11. The LEVA may transport the victim to the hospital for the forensic exam.

B. The LEVA may respond to the **hospital**:

1. Dispatch, at supervisor's or investigator's request, may require the LEVA respond directly to the hospital.
2. Upon arrival, the LEVA will be briefed by the officer or investigator. This may be done either in person or by phone.
3. The LEVA will confirm that the SANE/FNE and sexual assault victim advocate have been notified.

4. The LEVA may offer preliminary Victims' Rights information at this stage; however, it is likely the victim will be traumatized and may not absorb the information yet. The LEVA will note that this information must be provided when the victim is receptive to it. If the first responding officer has not already given the victim a written Victim Rights information sheet, including law enforcement case number and contact information, the LEVA should be sure the victim receives this information.
5. The LEVA will be present to provide support and to stay with victim until the sexual assault victim advocate and forensic examiner arrive. The LEVA will remain as long as the victim wishes, or as long as the agency requests. The LEVA may also assist by providing support and information to the victim's family and friends while they wait for the exam to be completed.
6. It is the victim's decision who will remain with her during the forensic exam. The LEVA may be present during the exam, but will not participate in evidence collection. The victim has the right to accept or decline victim services and support offered to her/him.
7. If the victim needs transportation, the LEVA may provide transportation to the victim's home or a safe location (friend or family member's home, shelter or hotel).

C. The victim may **delay reporting** the assault:

1. The LEVA will contact the victim as soon as possible, in person or by telephone, with follow-up by mail. The LEVA will be sure the victim receives a copy of the incident report and Victim Rights information.
2. The LEVA will notify the sexual assault services agency of the reported assault. Pursuant to §16-3-1520.
3. The investigator may ask the LEVA to be present during interviews.
4. The LEVA may provide the options related to follow-up medical treatment or other support service referrals as necessary, and provide transportation.

In all sexual assault cases, the LEVA will:

- A. Respect the victim's rights at every stage of the criminal justice process. The victim must be offered options regarding the service she/he receives, and the opportunity to take back a measure of control.
- B. Guard carefully the victim's right to privacy and anonymity, and share information about the victim and case only on a "need to know" basis and with those cleared to have the information. The victim must be advised that the LEVA is not bound by the same degree of confidentiality as the sexual assault victim advocate, so information disclosed to the LEVA may be passed on to the investigator, as necessary.
- C. Make sure the victim receives a copy of the incident report and Victim's Rights information.
- D. Maintain contact with victim, by phone, mail or in person, throughout the criminal justice process.

- E. Act as liaison between the victim and investigator, providing appropriate case updates and information.
- F. Be aware that a sexual assault victim may display a variety of emotions, or indeed a lack of emotion, following the trauma. The LEVA will not judge the victim in any way, for her demeanor, dress and other behaviors, but will assure the victim that SHE/HE IS NOT TO BLAME. The victim will be treated with dignity, compassion, gentleness, patience and professionalism at all times.
- G. Be a sympathetic listener, allowing the victim to tell his/her story in a safe and supportive environment;
- H. Be aware of and address the victim's concerns, including fear of perpetrator, fear of family or others finding out about the crime, fear of media attention, shame or embarrassment, fear of not being believed, fear of pressures from family and friends, and fear of pregnancy or HIV.
- I. Inform the victim, as most sexual assaults are perpetrated by someone known to the victim, of options for Orders of Protection and Restraining Orders. Protection Order may be obtained through Family Court if the perpetrator is a family member, spouse or household member as defined by law. A Restraining Order may be obtained through a Magistrate's Court if the perpetrator is an acquaintance, boyfriend/girlfriend or friend. The LEVA may also address any safety measures the victim can put in place as necessary.
- J. Be aware of and address the short-term and long-term impact of sexual assault, such as
 1. Short-term: anxiety, shock, numbness or denial, heightened startle response, flashbacks, physical symptoms, memory problems, feelings of guilt;
 2. Long-term: PTSD, depression, substance abuse to self-medicate, and suicide; and
 3. The LEVA will refer victim to appropriate psychological and social services.
- K. Explain the Victim Compensation program to the victim, and assist in applying for compensation, as needed. The SOVA Victim Compensation program will automatically cover the cost of the hospital forensic exam. However, a separate application must be filed for assistance with psychological or other medical care, including transportation by EMS. Be sure the victim knows that this is an application process, and that the LEVA cannot guarantee that the victim will receive payment. The LEVA should also assess if the SOVA application needs to be completed during the initial contact, or if it might be necessary to wait a day or so.
- L. Explain the court process to the victim. The LEVA will make sure the victim is notified in a timely manner of any court proceedings, such as bond hearings, Order of Protection hearings and other court appearances where he/she has the right to be present. The LEVA will provide court accompaniment and advocacy. The LEVA may provide transportation to and from court as needed. The LEVA may help the victim prepare a Victim Impact Statement to be presented to the court. The LEVA will make sure that the court is aware of any special needs the victim may have, and that appropriate services will be available. The LEVA will also refer the victim to the solicitor's office victim advocate in cases being forwarded to circuit court for prosecution. The solicitor's office victim advocate will then make sure the victim is notified of all hearings and court appearances. The LEVA will make sure the victim's contact information provided to the Solicitor's Office is correct. The

LEVA may continue to work closely with the solicitor's office victim advocate and the victim.

- M. Properly document each case in designated victim files of the law enforcement agency (e.g. Victim Contact Form and victim database).
- N. Contact the victim on a regular basis to check on his/her well-being and ensure that she/he has access to any follow-up services, and make appropriate referrals. The LEVA will make sure the victim's contact information is up-to-date, and that other agencies are made aware of any changes. The LEVA will act as liaison with community advocacy and systems agencies (courts, corrections) on behalf of the victim, as necessary.

If the victim of sexual assault is a juvenile:

- A. The LEVA may be notified by dispatch, the reporting officer or investigator, and may be requested to respond to the scene or the hospital.
- B. The LEVA will be briefed and assist officers in providing crisis intervention and emotional support to the child and to the parent/guardian. The LEVA will stay with the juvenile victim until a responsible party has arrived (parent/guardian, social services, mental health personnel).
- C. The LEVA may become aware of the assault through the Incident Report and will make contact with the investigator for initial briefing on the case.
- D. The LEVA will make contact with the parent/guardian of the victim to offer support and provide case information, as appropriate.
- E. The LEVA will be sure the parent/guardian receives Victims' Rights information, case number, and department and victim services contact information.
- F. Following initial contact, the LEVA will confer with the investigator assigned to the case to determine how the case will proceed, and what additional resources are required. The victim may be referred to a Child Advocacy Center for forensic interview and/or medical exam. If so, the LEVA will make contact with the victim's parent/guardian, and explain the process. The LEVA may provide transportation to the Child Advocacy Center, and/or accompany the victim and family members and investigator to the appointment.
- G. The LEVA will be familiar with the dynamics of child sexual abuse and the effects of sexual trauma on a minor, and proceed with sensitivity and discretion in dealing with the victim and family (for example, if the perpetrator is a family member or friend of the minor victim, the victim and his/her family may have conflicted feelings toward the perpetrator).
- H. The LEVA will make sure the victim's parent/guardian completes a SOVA application, and assist them with the application.
- I. The LEVA will make further referrals on behalf of the victim and parent/guardian as needed, to social service providers, counselors, and medical services.

Anonymous Reporting (Pursuant to South Carolina Act 59, see Appendix A)

- A. Anonymous reporting allows evidence to be collected while allowing time for a traumatized victim to decide to move forward with the investigation.
- B. When notified by a medical facility or SANE or FNE that there is an anonymous sexual assault kit ready to be picked up, the officer or investigator should:
 - 1. Respond to the respective hospital/medical facility and speak directly with the SANE/FNE.
 - 2. Do NOT attempt to view or speak to the victim who has indicated a desire to remain anonymous.
 - 3. Obtain the anonymous patient's Patient ID number.
 - 4. Generate an Anonymous Report (i.e. Information Report, CSC Anonymous Report) with a case number, hospital name and the SANE's/FNE's full name, if applicable.
 - 5. Provide the SANE/FNE with the case number from your agency.
 - 6. Log evidence kit into Property/Evidence room. The kit should not be opened or submitted for forensic analysis.
- C. The anonymous reporting victim can request for the case to be investigated within the year after the evidence is collected. If no request is made by the victim, then the evidence collected will be destroyed.

Critical Note: If the victim reports that the individual perpetrating the sexual assault is the victim's legal spouse, the victim has only thirty (30) days to report to law enforcement under South Carolina law (S.C. Code § 16-3-658).

*For a list of references utilized in the law enforcement protocol, please see **Appendix B**.*

Prosecutor Recommended Protocol

Sexual Assault in South Carolina

Sexual assault is often defined as any “non-consensual sexual contact.”

Key Definitions

Sexual battery (§ 16-3-651(h)): Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body.

Exception: When such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

Aggravated force (§ 16-3-651(c)): The actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon.

Aggravated coercion (§ 16-3-651(b)): The actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.

Mentally defective (§ 16-3-651(e)): A person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.

Mentally incapacitated (§ 16-3-651(f)): A person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.

Physically helpless (§16-3-651(g)): A person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

Criminal Sexual Conduct

There is no such thing as “sexual assault” or “rape” in South Carolina law. Instead, conduct is broken down by varying degrees of criminal sexual conduct. According to SC law, all of the following are criminalized as criminal sexual conduct (“CSC”):

CSC 1st (§ 16-3-652):

Sexual Battery with the Victim AND:

(a) Aggravated force is used to accomplish the sexual battery; OR

(b) The victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act; OR

(c) The actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.

Penalty: CSC 1st is a felony and carries 0-30 years

CSC 2nd (§16-3-653):

Sexual Battery with the victim and aggravated coercion is used to accomplish the sexual battery.

Penalty: CSC 2nd is a felony and carries 0-20 years

CSC 3rd (§16-3-654):

Sexual Battery with the Victim AND:

(a) Force or coercion is used to accomplish the sexual battery w/o aggravating circumstances OR

(b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery.

Penalty: CSC 3rd is a felony and carries 0-10 years

Assault With Intent to Commit CSC (§16-3-656):

Assaults with intent to commit criminal sexual conduct are punishable as if the criminal sexual conduct was committed.

Sexual Assault and Marriage in South Carolina

CSC Where the Victim is a Spouse (§16-3-658):

The couple must be living apart and the offender's conduct must either be CSC 1st degree (See above) or CSC 2nd degree (See above).

Reporting Requirement: The offending spouse's conduct must be reported to appropriate law enforcement authorities within **30 days** in order for a person to be prosecuted for these offenses.

Exception: This statute does not apply to a marriage entered into by a male under 16 and a female under 14.

Penalty: CSC 1st where the victim is a spouse is a felony and carries 0-30 years; CSC 2nd where the victim is a spouse is a felony and carries 0-20 years.

Spousal Sexual Battery (§16-3-615):

If the couple is living together the crime of spousal sexual battery is committed when a sexual battery is accomplished through use of aggravated force (see above) by one spouse against the other spouse.

Reporting Requirement: The offending spouse's conduct must be reported to appropriate law enforcement authorities within **30 days** in order for that spouse to be prosecuted for this offense.

Exception: This statute does not apply to a marriage entered into by a male under 16 and a female under 14.

Penalty: Spousal Sexual Battery is a felony and carries 0-10 years.

Sexual Assault and Children in South Carolina

If a minor is involved the conduct may be classified in two ways:

CSC with a Minor 1st Degree (§16-3-655(A)):

- (1) Sexual battery with a victim who is younger than 11 OR
- (2) Sexual battery with a victim who is younger than 16 AND the actor has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in South Carolina Code §23-3-430(C) or has been ordered to be included in the sex offender registry pursuant to §23-3-430(D).

Penalty: §16-3-655(A)(1) is a felony and carries a mandatory minimum of 25 years (no part of which may be suspended or probation granted) to life.

If the defendant is convicted or adjudicated guilty of subsection (A)(1) and the conduct making up the sexual battery was sexual or anal intercourse by a person or intrusion by an object AND the defendant has a prior offense for first-degree CSC with a minor who is less than 11 years of age or has an out-of-state equivalent conviction, the State may seek the death penalty, or the defendant may be imprisoned for life, depending upon the prior type of sexual battery (please refer to §16-3-655(c)(1)).

§16-3-655(A)(2) is a felony and carries 10-30 years (no part of which may be suspended or probation granted).

CSC with a Minor 2nd Degree (§16-3-655(B)):

- (1) Sexual battery with a victim who is 14 or younger, but is at least 11 OR
- (2) Sexual battery with a victim who is at least 14 but is less than 16 AND the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim.

Exception: A person may not be convicted of §16-3-655(b)(2) if he is 18 or younger when he engages in consensual sexual conduct with another person who is at least 14.

Penalty: A person convicted of this section is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years according to the discretion of the court.

CSC with a Minor 3rd Degree (§16-3-655(C)):

Actor is over 14 and he/she willfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body, or its parts, of a child under 16 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child.

Exception: If the person is 18 or less and engages in a consensual lewd or lascivious act with another person who is at least 14.

Penalty: A person convicted of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than fifteen years, or both.

Other Sexual Assault Laws in South Carolina

Jessie's Law – Hearsay Exception (§17-23-175):

Admission of child's recorded investigative interview (forensic interview)

State v. Russell, 679 S.E.2d 542 (Ct. App. 2009) (Affirmed)

The court upheld the admission of the child victim's videotaped interview pursuant to the child hearsay exception enacted on July 1, 2006 as a component of "Jessie's Law," also known as the "Sex Offender Accountability and Protection of Minors Act of 2006"). The child hearsay exception requires that the child testify at the proceeding and be available for cross-examination in compliance with the Confrontation Clause of the U.S. Constitution.

In *Russell*, the appellant argued that the admission of the videotaped investigative interview amounted to "improper bolstering." The Court of Appeals determined that "the legislature has made a specific allowance for these out-of-court statements by child victims provided certain elements are met." In addition, the court ruled that the child's videotaped interview was "highly probative to the question of Russell's guilt or innocence," and that "any prejudicial effect was outweighed by its probative value."

State v. Bryant, 675 S.E.2d 816 (Ct. App. 2009) (Affirmed)

The court upheld the application of S.C. Code Section 17-23-175 (the child hearsay component of "Jessie's Law). Specifically, this case examined whether the application of the statute violated the *ex post facto* clauses of the state and federal constitutions. In *Bryant*, the defendant's charges were already pending when the "Jessie's Law" child hearsay exception was enacted on July 1, 2006.

The court determined that the child hearsay exception was procedural in nature and did not *ex post facto* clause to be implicated, the statute at issue must be criminal or penal in purpose and nature." Thus, Section 17-23-175 was found to be applicable regardless of the date of the defendant's arrest or indictment.

Males under 14 (§16-3-659):

The common law rule that a boy under 14 years is conclusively presumed to be incapable of committing the crime of rape **shall not** be enforced in this State. However, ANYONE under the age of 14 shall be tried as a juvenile for any violations of §16-3-651 to 16-3-659.1.

Admissibility of evidence concerning victim's sexual conduct (§16-3-659.1):

This section covers what we commonly call "rape shield" statutes:

- (1) Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is **not admissible** in prosecutions under §16-3-615 and 16-3-652 to 16-3-656.

Exception: Evidence of the victim's sexual conduct with the defendant or evidence of specific instances of sexual activity with persons other than the defendant introduced to show source or origin of semen, pregnancy, or disease about which evidence has been introduced previously at trial is admissible if the judge finds that such evidence is relevant to a material fact and issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value. Evidence of specific instances of sexual activity which would constitute adultery and would be admissible under the rules of evidence to impeach the credibility of the witness may not be excluded.

- (2) If the defendant offers evidence described in subsection (1): the defendant, prior to presenting his defense, shall file a written motion and offer of proof. The court shall order an in-camera hearing to determine whether the proposed evidence is admissible under subsection (1).

Note: If new evidence is discovered during the presentation of the defense that may make the evidence described in subsection (1) admissible, the judge may order an in-camera hearing to determine whether the proposed evidence is admissible under subsection (1).

Publishing a Victim's Name (§16-3-730):

It is unlawful to publish or "cause to be published" the name of any person who is a victim of criminal sexual conduct in this state in any newspaper, magazine or other publication.

Exception: Does not apply to publications made by order of court.

Penalty: Upon conviction, shall be punished by a fine of not more than one thousand dollars or imprisonment of not more than three years.

Polygraphs (§16-3-750):

Polygraphs may be requested as a part of the investigation, charging or prosecution of the offense if the credibility of the victim is at issue; however a polygraph may not be required as a condition for proceeding with the investigation, charging or prosecution of the offense.

Statutes of Limitation:

There are **NO** statutes of limitation for reporting sexual assaults in SC, with the exception of the reporting requirements listed above (Spousal Sexual Battery and CSC where the victim is a spouse).

Other Possible Charging Statutes:

Sometimes conduct by an offender may not fit neatly into one of the CSC charges, or may be impossible under the law. If that is the case, the following may be considered as possible charges:

Indecent Exposure (§16-15-130)

Contributing to the Delinquency of a Minor (§16-17-490).

Sexually Transmitted Disease Testing

Our law has provisions for testing on behalf of victims of sexual assault.

Key Definitions

Body Fluid (§16-3-740(A)(1)): Blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.

HIV (§16-3-740(A)(2)): Human Immunodeficiency Virus.

Offender (§16-3-740(A)(3)): Includes adults and juveniles.

Testing Procedures (§16-3-740(B-I)):

If a victim has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a victim who has been exposed to body fluids during the commission of a criminal offense, the solicitor must, within **forty-eight hours**, excluding weekends and legal holidays as defined in Chapter 5, Title 53, after the offender is charged, or within forty-eight hours, excluding weekends and legal holidays, as defined in Chapter 5, Title 53, after a petition has been filed against an offender in family court, **petition the court** to have the offender tested for Hepatitis B and HIV.

An offender must not be tested for Hepatitis B and HIV without a court order.

To obtain a court order, the solicitor must demonstrate the following:

- (1) the victim or the victim's legal guardian requested the tests;
- (2) there is probable cause that the offender committed the offense;
- (3) there is probable cause that during the commission of the offense there was a risk that body fluids were transmitted from one person to another; and
- (4) the offender has received notice of the petition and notice of his right to have counsel represent him at a hearing.

The results of the tests: must be kept confidential and disclosed only to the solicitor who obtained the court order. The solicitor shall then notify only those persons designated.

The tests must be administered by the Department of Health and Environmental Control, through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained.

The solicitor shall notify the following persons of the tests results:

- (1) The victim or the legal guardian of a victim who is a minor or is mentally retarded or mentally incapacitated;
- (2) The victim's attorney;
- (3) The offender and a juvenile offender's parent or guardian; and
- (4) The offender's attorney.

The results must have a disclaimer that reads: "The tests were conducted in a medically approved manner, but tests cannot determine infection by Hepatitis B or HIV with absolute accuracy. Additionally, the testing does not determine exposure to, or infection by, other sexually transmitted diseases. Persons receiving the test results should continue to monitor their own health, seek retesting in approximately six months, and should consult a physician as appropriate."

The solicitor also shall provide the test results to the state or local correctional facility where the offender is imprisoned or detained (only for the purpose of providing medical treatment).

The State shall pay for the tests. If the offender is subsequently convicted or adjudicated delinquent, the offender or the parents of an adjudicated offender must reimburse the State for the costs of the tests unless the offender or the parents of the adjudicated offender are determined to be indigent.

If the tests given pursuant to this section indicate infection by Hepatitis B or HIV, the Department of Health and Environmental Control shall be provided with all test results and must provide counseling to the offender and the victim. DHEC must also advise the victim of available treatment, refer the victim to health care and treat the victim, if requested.

At the request of the victim or the victim's legal guardian, the court may order a follow-up HIV test and counseling for the offender if the initial HIV test was negative. The follow-up test and counseling must be six weeks, three months, and six months following the initial test. If an offender is acquitted or charges are dismissed then an order for a follow-up test should be terminated.

If, for any reason, the testing described above has not been undertaken, upon request of the victim or the victim's legal guardian, the court shall order the offender to undergo testing for Hepatitis B and HIV following conviction or delinquency adjudication. DHEC administers the test as outlined above.

If there is probable cause, the collection of additional samples may also be ordered by the court so that the State may conduct scientific testing, including DNA analysis. The results of the scientific testing, including DNA analysis, may be used for evidentiary purposes. Other test results cannot be used as evidence.

Civil and criminal liability immunity is also created for any person or entity who administers tests ordered pursuant to this section and who does so in accordance with this section. Immunity is also created for the disclosure of information in accordance with this section, or in good-faith without malice.

Sexual Assault and Students in South Carolina

Sexual assault against a student is referred to as “sexual battery with a student.”

Key Definitions

Aggravated coercion (§16-3-755(A)(1)): The person affiliated with a public or private secondary school in an official capacity threatens to use force or violence of a high and aggravated nature to overcome the student, if the student reasonably believes that the person has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, under circumstances of aggravation, against the student.

Aggravated force (§16-3-755(A)(2)): The person affiliated with a public or private secondary school in an official capacity uses physical force or physical violence of a high and aggravated nature to overcome the student or includes the threat of the use of a deadly weapon.

Person affiliated with a public or private secondary school in an official capacity (§16-3-755(A)(3)): An administrator, teacher, substitute teacher, teacher's assistant, student teacher, law enforcement officer, school bus driver, guidance counselor, or coach who is affiliated with a public or private secondary school but is not a student enrolled in the school.

Secondary school (§16-3-755(A)(4)): Either a junior high school or a high school.

Sexual battery (§16-3-755(A)(5)): Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

Student (§16-3-755(A)(6)): A person who is enrolled in a school.

Sexual Battery with a Student (§16-3-755(B-E)):

A person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is 16 or 17 years of age, and aggravated coercion or aggravated force is not used.

Penalty: This type of sexual battery with a student is a felony that carries up to 5 years.

A person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is 18 years of age or older and aggravated coercion or aggravated force is not used to accomplish the sexual battery.

Penalty: This type of sexual battery is a misdemeanor that carries not more than \$500 or 30 days, or both.

A person affiliated with a public or private secondary school in an official capacity with direct supervisory authority over a student enrolled in the school who is 18 years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student without the use of aggravated coercion or aggravated force.

Penalty: This type of sexual battery is a felony and carries up to 5 years.

Exception: This statute does not apply if the offender is lawfully married to the student at the time of the act.

*Students under the age of 16 are protected under the “CSC with a Minor” laws.

Predicate Questions

Qualifying a Medical Doctor as a Witness

Identifying the Witness

1. Please state your name and address.
2. What is your occupation/profession?
3. Are you licensed in this state?
4. How long have you held a license in _____ (name the state)?
5. What medical college did you attend?
6. Where did you intern?
7. Since that time, where have you practiced?
8. Is the nature of your practice general or specialized?

Identifying the Physical Facts

1. On or about _____, did you have occasion to see _____ professionally?
2. Where did you see _____?
3. Describe his condition at the time.
4. What, if anything, did you do on that occasion?
5. Have you been the attending physician since that date?
6. Describe the nature of the examinations which you made on _____ and from time to time since then.
7. Did you see him daily (several times a day at first) when he was at the hospital?
8. Did you continue to see him?
9. How often did you continue to see him?
10. What, generally, did your treatment consist of?
11. How many operations?
12. Did you see him from time to time, during those periods, as his attending physician?
13. From your examination and treatment of _____, did you determine what organs of his body were injured?

**Continue questioning for the purpose of your case*

Identifying and Introducing Hospital Records as Evidence

Identifying the Witness

1. Please state your name and address.
2. What is your occupation/profession?
3. Who is your employer?
4. What is the position you hold?

Identifying the Physical Facts

1. Did you receive a subpoena for certain hospital records?

2. Did you bring the records?
3. Can you identify these hospital records?
4. What was the mode of preparation of these hospital records?
5. Were the hospital records maintained under your care, custody and control?
6. Were the hospital records made in the regular course of business?
7. Were the hospital records made at the time the act, condition or event occurred or transpired?
8. Are these hospital records regularly kept or maintained?

*Your Honor, the State requests these records be marked for the purposes of identification as State's Exhibit ____ and asks that they be admitted as evidence.

Qualifying a DNA Expert as a Witness

Identifying the Witness / RFLP Typing

1. What is your name and address?
2. What is your occupation/profession?
3. Who is your employer?
4. How long have you been employed by _____ (name of agency/company)?
5. What services does _____ provide?
6. What are your duties and responsibilities?
7. Would you describe your educational background?
8. What schools have you attended?
9. What degree(s) have you received?
10. Did your formal education include the study of DNA?
11. Did that education include hands-on work with DNA testing techniques?
12. Have you performed research in the area of DNA or DNA testing?
13. Prior to your employment at _____, please describe any other positions you have held.
14. Did you perform DNA typing in those previous positions?
15. What role do professional societies and organizations play in the science of DNA?
16. What societies or organizations do you belong to?
17. Do you attend their meetings?
18. Are you asked to deliver or present your own research at those meetings?
19. Have you written any papers or articles?
20. Have they been published in the scientific literature?
21. Are papers and articles important in science?
22. Why are papers and articles important?
23. What is "peer review"?
24. What role does peer review play in science?
25. Have your papers or articles been peer reviewed before they were published?
26. Are you asked to peer review the scientific publications of others?
27. Do you regularly read the scientific literature in the area of DNA? Why?
28. What journals or other scientific publications do you regularly read?
29. Have you testified before today as an expert in DNA testing?

30. Approximately how many times?
31. In what courts and states?
32. What is DNA?
33. When was it discovered?
34. Why is DNA important?
35. Where is DNA found in humans?
36. Is the DNA in all people the same?
37. What about in identical twins?
38. Are there methods to type DNA from different people?
39. When were they developed?
40. What do they do?
41. How are they different from one another?
42. Have you used them before?
43. How are they different from methods that have been used before DNA was discovered?
44. What is the RFLP method of DNA typing?
45. Is the RFLP form of DNA typing used in fields other than criminal cases?
46. What are those fields?
47. Do these uses include to:
 - a. Diagnose diseases?
 - b. Transplant organs and tissue?
 - c. Save lives?
 - d. Save endangered animals?
 - e. Identify the remains of American war dead?
48. Is the RFLP method used around the world?
49. Very briefly, how does the RFLP method work?
50. Are controls used in the testing process?
51. What is a control?
52. Why are they important?
53. What if the controls do not work properly?
54. How do you read the results of an RFLP test?
55. Is it an x-ray just like in the doctor's office?
56. Can anyone see the results?
57. Does that include the judge, the lawyers and the jury?
58. What types of results can you get from an RFLP test?
59. What is "no result"?
60. What is an "inconclusive" result?
61. What is an "exclusion"?
62. What is a "match"?
63. Can anything make DNA in a sample change from one type to another?
64. Can DNA in a sample get old or die?
65. Is there anything about the testing process that can change the DNA types in a sample?
66. Do you and your laboratory undergo proficiency testing?
67. What is proficiency testing?
68. How often are you tested?
69. What are the results of your proficiency testing?
70. What licenses does your laboratory hold?

71. What certification or accreditation does your laboratory hold?
72. Does your laboratory follow the guidelines of any organizations?
73. What is "T.W.G.D.A.M."?
74. Does your laboratory perform DNA typing for both prosecutors and defendants?
75. Are charges ever dismissed against defendants as a result of your DNA test results?
76. Are inmates ever freed from prison as a result of your DNA test results?
77. What is quality assurance?
78. Are quality assurance programs in effect at your laboratory?
79. Please describe those programs.
80. When your laboratory receives cases for DNA testing, what steps are taken to ensure the integrity of the evidence?
81. What is "chain of custody"?
82. How do you make sure that a proper chain of custody is maintained?
83. What are protocols?
84. Does your laboratory have written protocols?
85. What do those protocols require?
86. Do those protocols cover every step from receipt of evidence to the writing of reports?
87. Have those protocols been approved by any agency or organization?
88. What are population frequencies?
89. Why are they important in DNA typing?
90. What is your education and training in population frequencies?
91. Please describe your experience in the use of frequencies.
92. Have you used them in DNA cases before?
93. Have you testified before as an expert in the use of population frequencies in court?
94. Have population frequencies been used even before DNA typing?
95. How are these estimates calculated?
96. Do you take any steps to ensure that your estimates are accurate?
97. What do you mean when you say "conservative" steps are taken in the calculation of frequency estimates?
98. Why do you calculate estimates for major races?

Identifying the Physical Facts

1. Did you receive evidence in the case of _____ vs. _____?
2. When did you receive that evidence?
3. What was included in that evidence?
4. What was done with that evidence when it was received?
5. Was each entire sample used up in the testing process?
6. Why not?
7. What is a "future test sample"?
8. Why do you save a portion of the evidence?
9. Which samples were tested by you in this case?
10. Were results obtained?
11. Who decides what the results are?
12. Must both of you agree?
13. Did you both agree on all the results in this case?

14. Do you have with you the x-rays from the testing in this case?
15. Can you show them to the judge and jury?
 - a. Your Honor, the State asks that these _____ be marked for the purpose of identification as State's Exhibit _____ and offer them for admission as evidence.
16. Did all the controls show the tests were performed properly or not?
17. What were the results in this case?
18. Did you calculate estimates for the rarity of the matches you found?
19. What are those estimates?
20. What do those estimates mean?
21. What did you do with the evidence after your testing was completed?
22. Did you provide all of your reports and notes to the defense in this case?

Identifying the Witnesses / PCR Typing

1. Please state your name and address.
2. What is your occupation/profession?
3. Who is your employer?
4. How long have you been employed by _____ (name of agency/organization)?
5. What services does _____ provide?
6. What are your duties and responsibilities?
7. Would you describe your educational background?
8. What schools have you attended?
9. What degree(s) have you received?
10. Did your formal education include the study of DNA?
11. Did that education include hands-on work with DNA testing techniques?
12. Have you performed research in the area of DNA or DNA testing?
13. Prior to your employment at _____, please describe any other positions you have held.
14. Did you perform DNA typing in those previous positions?
15. What role do professional societies and organizations play in the science of DNA?
16. What societies and organizations do you belong to?
17. Do you attend their meetings?
18. Are you asked to deliver or present your research at those meetings?
19. Have you written any papers or articles?
20. Have they been published in the scientific literature?
21. Are papers and articles important in science?
22. Why?
23. What is "peer review"?
24. What role does peer review play in science?
25. Have your papers or articles been peer reviewed before they were published?
26. Are you asked to peer review the scientific publications of others?
27. Do you regularly read the scientific literature in the area of DNA? Why?
28. What journals or other scientific publications do you regularly read?
29. Have you testified before today as an expert in DNA testing?
30. Approximately how many times?
31. In what courts and states?

32. What is DNA?
33. When was it discovered?
34. Why Is DNA important?
35. Where is DNA found in humans?
36. Is the DNA in all people the same?
37. What about in identical twins?
38. Are there methods to type DNA from different people?
39. When were they developed?
40. What do they do?
41. How are they different from one another?
42. Have you used them before?
43. How are they different from methods that have been used before DNA was discovered?
44. What is the PCR method or DNA typing?
45. Is the PCR form of DNA typing used in fields other than criminal cases?
46. What are those fields?
47. Do these uses include to:
 - a. Diagnose diseases?
 - b. Transplant organs and tissue?
 - c. Save lives?
 - d. Save endangered animals?
 - e. Identify the remains of American war dead?
48. Is the PCR method used around the world?
49. Very briefly, how does the PCR method work?
50. Are controls used in the testing process?
51. What is a control?
52. Why are they important?
53. What if the controls do not work properly?
54. How do you read the results of a PCR test?
55. What types of results can you get from a PCR test?
56. What is “no result”?
57. What is an “inconclusive” result?
58. What is an “exclusion”?
59. What is a “match”?
60. Can anything make DNA in a sample change from one type to another?
61. Can DNA in a sample get old or die?
62. Is there anything about the testing process that can change the DNA type in a sample?
63. What is a “contamination”?
64. What steps do you take to deal with the possibility of contamination?
65. What roles do controls play in determining whether any contamination has occurred?
66. Are there additional controls which are used specifically for PCR testing?
67. Do you and your laboratory undergo proficiency testing?
68. What is proficiency testing?
69. How often are you tested?
70. What are the results of your proficiency testing?
71. What licenses does your laboratory hold?
72. What certificates or accreditation does your laboratory hold?

73. Does your laboratory follow the guidelines of any organizations?
74. What is "T.W.G.D.A.M."?
75. Does your laboratory perform DNA typing for both prosecutors and defendants?
76. Are charges ever dismissed against defendants as a result of your DNA test results?
77. Are inmates ever freed from prison as a result of your DNA test results?
78. What is quality assurance?
79. Are quality assurance programs in effect in your laboratory?
80. Please describe those programs.
81. When your laboratory receives cases for DNA testing, what steps are taken to ensure the integrity of the evidence?
82. What is "chain of custody"?
83. How do you make sure that a proper chain of custody is maintained?
84. What are protocols?
85. Does your laboratory have written protocols?
86. What do those protocols require?
87. Do those protocols cover every step from receipt of evidence to the writing of reports?
88. Have those protocols been approved by any agency or organization?
89. What are population frequencies?
90. Why are they important in DNA typing?
91. What is your education and training in population frequencies?
92. Please describe your experience in the use of frequencies.
93. Have you used them in DNA cases before?
94. Have you testified before as an expert in the use of population frequencies in court?
95. Have population frequencies been used even before DNA typing?
96. How are these estimates calculated?
97. Do you take any steps to ensure that your estimates are accurate?
98. What do you mean when you say "conservative" steps are taken in the calculation of frequency estimates?
99. Why do you calculate estimates for major races?

Identifying the Physical Facts

1. Did you receive evidence in the case of _____ vs. _____?
2. When did you receive that evidence?
3. What was included in the evidence?
4. What was done with that evidence when it was received?
5. Was each entire sample used up in the testing process?
6. Why not?
7. What is a "future test sample"?
8. Why do you save a portion of the evidence?
9. What samples were tested by you in this case?
10. Were results obtained?
11. Who decides what the results are?
12. Must both of you agree?
13. Did you both agree in all the results in this case?
14. Did all the controls show the tests were performed properly or not?
15. What were the results in this case?

16. Did you calculate estimates for the rarity of the matches you found?
17. What are those estimates?
18. What do those estimates mean?
19. What did you do with the evidence after your testing was completed?
20. Did you provide all of your reports and notes to the defense in this case?

More Predicate Questions

The following pages (64-66) were reproduced with permission from the South Carolina Commission on Prosecution Coordination and L. Suzanne Mayes, Esquire. They were updated by the SC Attorney General's Office to reflect changes in the law.

Forensic Interviewer

A forensic interviewer should NEVER be qualified as an expert in forensic interviewing.

1. Educational Background and training
2. Employment Background
 - a. Where are you employed?
 - b. What services do you provide?
3. Courses, seminars, and other training in field of forensic interviews
4. What is a "forensic interview"?
5. How are forensic interviews conducted to assess possible child abuse?
6. What protocol do you use?
7. Are the child's parents or guardians present for the interview? Why or Why not?
8. Where is the interview conducted? Who may be allowed to observe the interview? In what manner?
9. Is the child's family and/or social history obtained?
10. Do you obtain a medical history?
11. What type of questioning format I used in the forensic interview? (i.e., non-leading, non-suggestive questions) Why are these safeguards used?
12. When assessing child physical or sexual abuse, how do you determine the child's knowledge of his or her anatomy?

Case-Specific Questions

Always make sure you have discussed these questions in advance with the forensic interviewer.

1. On what date did you conduct a forensic interview with _____ (victim)?
2. What person or agency referred the child for the forensic interview?
3. What, if anything, did _____ (victim) relate to you concerning the place or places that sexual assault(s) occurred?
4. What, if any, recommendation did you make following _____'s (victim) disclosure of abuse?

Counselor, Psychologist, or Other Behavioral Evidence Expert

Qualification of the Expert

Request and review the expert's resume in advance.

1. Background and training

2. Type of professional licensing or practice
 - a. Where are you employed?
 - b. What specific types of services do you provide?
3. Courses, seminars, and other training in child abuse, sexual assault, or incest
4. Training or teaching experience
5. Professional organizations, affiliations, publications, speaking engagements
6. Amount of experience counseling victims of sexual assault/child victims/or adult survivors of sexual child abuse
7. Number of years in practice; estimated number of patients
8. Previous court testimony and qualification as an expert witness

Offer as an expert in the field of “child sexual abuse counseling & treatment” or “child sexual abuse trauma recovery.” Remember State v. Schumpert, 435 S.E.2d 859 (S. Ct. 1993): “Defects in the amount and quality of education and experience go to the weight of the expert’s testimony and not its admissibility.”

Remember State v. Chavis (2015): Requires that the forensic interviewer’s work has been peer reviewed on multiple occasions. Also a forensic interviewer cannot testify to their recommendations in the case as this is improper bolstering.

Delayed Reporting and Related Issues

Caveat – State v. Dawkins, Opinion No. 25340 (S.Ct. Filed August 13, 2001) held that identity of the perpetrator is inadmissible hearsay. Corroborating witnesses are limited to “time and place” of assault as reported to them by the victim. Therefore, it is best to have the expert avoid calling the perpetrator by name or other identifying labels such as “Grandpa.” However, the expert should be allowed to generally discuss the dynamics of sexual abuse which occur when the perpetrator is a family member or authority figure.

1. Among child abuse professionals, what is meant by the terms “delayed disclosure” or “delayed reporting”?
2. In your experience, how common is delayed reporting among victims of child sexual abuse?
3. What factors commonly play a role in delayed disclosure?
4. Can you explain the family dynamics that may affect a child’s delay in reporting physical or sexual abuse?
 - a. When the perpetrator is within the family or present at home
 - b. When the perpetrator has a strong influence on the child or the family
 - c. When the perpetrator is abusive, domineering, controlling
 - d. When the non-offending parent is passive
 - e. When the perpetrator is an authority figure or loved by child
 - f. The child wishes to protect others, such as the mother, siblings, or anyone she perceives as being harmed by the revelation
 - g. When the child has strong desire to keep the family intact
 - h. When the perpetrator has threatened the child or a family member
 - i. Child’s own natural feelings of guilt, shame, fear, and not being believed

5. How may a child's disclosure be affected if the perpetrator is a family member (or lives in the home)? Are you more or less likely to see delayed reporting in these types of situations?
6. Based upon your professional experience, can you give us some examples of the different time spans you have seen involving the issue of delayed disclosure (e.g., cases spanning months, years, or into adulthood before disclosure, and cases with adult incest survivors where multi-generational sexual abuse may have occurred without any previous disclosure)?
7. What is meant by the term "piecemeal" or partial disclosure? Why may this occur?
8. Do you necessarily expect a complete disclosure when interviewing children? Why or Why not?
9. Do children necessarily recall the chronological order of events in cases of chronic (ongoing) sexual abuse? Why or Why not?

Case-Specific Delayed Disclosure

1. In your expert opinion, did any of the factors you have previously discussed play a role in _____'s (victim) delayed reporting?
2. Based upon your training and experience, was _____'s (victim) delayed response reporting consistent or inconsistent with her history of sexual abuse?
3. *Optional*—What experiences, if any, have you had with *adult victims* who later disclose a history of childhood sexual abuse?
4. Hypothetically, if the perpetrator is a family member (authority figure, etc.), would delayed disclosure be consistent or inconsistent with sexual abuse?
5. What, if any, effect may physical or emotional abuse by the perpetrator have in delayed reporting?
6. What factors may ultimately encourage a child to reveal sexual abuse (e.g., a trusted relationship, change in environment, sense of security, age development, or other factors such as child revealing because of fear that sibling will also be abused, or fear that the abuse will escalate)?
7. What type of support system should be in place to allow a child to disclose sexual abuse?

Trauma Symptoms

Caveat—the proper language for the expert to use is “consistent with,” instead of giving an outright conclusion regarding sexual abuse or post-traumatic stress disorder. See State v. Morgan, 485 S.E.2d 112 (1997).

1. When was _____ (victim) first referred to you for counseling?
2. For what purpose have you treated the victim?
3. What are _____'s (victim) treatment goals?
4. How has he/she progressed?
5. Why may symptoms of trauma follow sexual abuse or sexual assault?
6. What, in general, are recognized symptoms of trauma following an act of sexual abuse or sexual assault?

7. What, if any, trauma symptoms did _____ (victim) exhibit? (Expert may rely on child's given history as underlying basis of opinion. Rule 703, SCRE.)
8. How does counseling help to address these symptoms?
9. In your expert opinion, are _____'s (victim) symptoms of trauma consistent or inconsistent with his/her history of sexual abuse?

Other Related Issues

These sample questions may be helpful in cases of ongoing, chronic sexual abuse where the victim has seemingly become passive to the abuse or cooperative with the perpetrator. This type of behavioral response is often termed "Child Sex Abuse Accommodation Syndrome."

1. In your expert opinion, can you tell us why some children may cooperate with an abuser?
2. Can you tell us what factors may play a role in a child's cooperation or acceptance of abuse (e.g., a desire to maintain other family relationships, love for the perpetrator, fear or intimidation)?
3. Based upon your professional experience, can you tell us whether this is a common or uncommon reaction to child sexual abuse?
4. In your expert opinion, can you tell us whether this reaction is consistent or inconsistent with _____'s (victim) history of child sexual abuse?

General Duties of a Prosecutor

- 1) Meet with law enforcement
 - a. Review all reports and collected evidence and obtain any evidence not already in file (911 tape, photographs, medical reports, etc.).
 - b. Make recommendations for further investigation (witness statements, crime scene diagrams, etc.).
 - c. Discuss possible charges, if any.
 - d. If there are already charges, confer with the victim. Victims have a right to confer with the prosecution after charging, before trial or before any disposition and to be informed of the disposition, according to the South Carolina Constitution (Article 1, Section 24).
- 2) Meet with the victim
 - a. Establish a working relationship and rapport with the victim.
 - b. Review the victim's bill of rights with the victim and adhere to all mandatory constitutional and statutory requirements for the prosecuting agency.
 - c. Determine if any lethality risk exists and if so, refer victim to LEVA and/or other community advocates for assistance in obtaining orders of protection, restraining orders, etc.
 - d. Discuss any potential (or additional) charges with victim, if any. Victims have a right to confer with the prosecution after charging, before trial or before any disposition and to be informed of the disposition.
 - e. If case is not able to be charged, make appropriate referrals for victim (counseling, etc.).
- 3) Speak with community or law-enforcement advocates
- 4) Make charging decisions
 - a. Think "outside the box" about potential charges if CSC isn't a possibility (charges involving weapons, alcohol, lewd acts, indecent exposure, etc.).
Be conscious of State v. Baker (2015): Requires indictments to be more specific in regards to timeframe of the incident. For example, if the victim was assaulted every summer over a period of 6 years do indictments for just the summer months instead of one indictment covering 6 years.
 - b. Attend bond hearing, arraignment, etc.
 - c. Make sure a no-contact order is a condition of the bond and ask law enforcement to monitor closely any contact that is made.
- 5) Prepare for plea/trial

*Utilize your victim advocate during this phase of a sexual assault case. Prosecutors get very busy during trial preparation so it will be useful to have someone who communicates with the victim.

 - a. Keep victim informed of case progression, plea deals, etc. Victims have a right to confer with the prosecution before trial or before any disposition and to be informed of the disposition.
 - b. If the case proceeds to trial, prepare victim for testimony.
 - i. Practice direct and cross examination.
 - ii. Discuss proper attire.

- 6) Sentencing: Make sure the victim is prepared to address the court during sentencing if he/she wishes.
- 7) Appeal
 - a. Explain the appellate process.
Make sure all victim notification forms are completed.

Appendix A: South Carolina Anonymous Reporting Protocol

VAWA 2005 reauthorization mandates, S.C. Recommended Protocol, and S.C. Act 59: VAWA Forensic Compliance (federal) and SC Act 59 (state) are law, and are not optional.

Federal Precedent-Violence Against Women Act's Forensic Compliance 2005

42 U.S.C.A. S. 3796gg-4.b.3.D.d.1: “Nothing in this section shall be construed to permit a state, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such exam or both.”

Translation: Victims do not have to report the sexual assault to law enforcement to receive a forensic exam and to have that exam paid for. Additionally, States must certify that they are in compliance with the statutory eligibility requirement of VAWA.

Model of Compliance

New Anonymous Reporting Protocol for victims 18 years old or older

Guiding principle: Victim Centered

Emphasizes:

1. **Evidence collection** (forensic evidence collection kit)
2. **Medical attention for victim** (medico-legal examination, STI and pregnancy prevention)

Characteristics:

- Victims must be offered a sexual assault/forensic evidence collection examination regardless of their decision to participate with the criminal justice system (law enforcement authorization for forensic evidence collection kit is *not* required).
- As far as law enforcement is concerned, there is no investigation until the victim chooses to convert the kit (report the crime) and initiate a law enforcement investigation.
- Law enforcement transports evidence to appropriate law enforcement agency with jurisdiction over location where sexual assault occurred.

New Anonymous Reporting Protocol

- The anonymous reporting protocol does not include law enforcement contact.
- SANE or other qualified medical provider at a hospital emergency department shall perform the forensic evidence collection kit in the *same manner as if it was a law enforcement-involved kit*.
- The evidence will be stored for a period of one (1) year, allowing the victim time to make a decision about whether or not she/he desires to move forward with law enforcement investigation once the trauma response has stabilized.
- The **only differences** between the new anonymous reporting protocol and the traditional law enforcement involved protocol is that:
 - law enforcement approval to perform the forensic evidence collection kit and exam is no longer required; and
 - anonymous forensic evidence kits will be stored for one year from date of collection.
- A full medico-legal examination, including:
 - a report of the assault by the victim taken by the SANE nurse or medical provider
 - evidence collection;
 - charting and photographs of injuries (if any);
 - prevention of sexually transmitted infections and pregnancy; and
 - blood draw, if indication that sexual assault was drug facilitated.

Note: For storage purposes, only clothing that was next to the genitals will be collected, unless the circumstances of the assault warrants collecting additional clothing.

- **SLED Forensic Evidence Collection Kits**
 - Encourage bringing toxicology samples to SLED as soon as possible.
 - Blood samples need to be taken within 12 hours of sexual assault.
 - Urine samples need to be taken within 24 hours of sexual assault.

Payment for Anonymous Kits

- Requests should be submitted through the SC State Office of Victims Assistance (SOVA) just as requests for payment of non-anonymous kits would be.
 - ANONYMOUS KIT should be clearly noted on the application form.
- If further medical attention is given beyond the forensic evidence collection kit, request for payment may be submitted to SOVA as well, with the anonymous notation.
 - SOVA will consider these on a case by case basis.
 - If there are issues with reimbursement, please contact your local sexual assault direct service provider, or SCCADVASA.

S.C. Anonymous Reporting Protocol

Step 1: Victim Discloses or Presents at a Hospital

- Protocols for Reporting Sexual Assaults: When an adult victim of sexual assault (age 18 or older) presents at a hospital or discloses to a victim advocate that she/he has been sexually assaulted, **the individual must be presented with all options for reporting the sexual assault.**
- Reporting options available are:
 1. New Anonymous Reporting Protocol;
 2. Traditional Law Enforcement-Involved Reporting Protocol; and
 3. Just Medical Care (without a forensic exam. SOVA *will only* pay for this if reimbursement forms are filed, which requires law enforcement participation).

Step 2: Storage and Transportation of Anonymous SAFE Kits and Evidence

- Hospital personnel shall contact the designated law enforcement agency to notify that an anonymous SAFE kit is ready to be picked up for storage.
- Hospitals shall maintain chain of custody until SAFE kit and other evidence are turned over to the designated law enforcement agency.
 - The SANE nurse/hospital personnel and victim advocate will make reasonable efforts to determine the jurisdiction of the sexual assault.
 - Hospitals or other medical facilities shall not hold completed SAFE kits and other evidence for long-term storage. (Unless otherwise determined.)
- Law Enforcement shall pick up, transport and store SAFE kits and other evidence according to departmental procedures.
 - Methods such as anonymous report, citizen contact, suspicious incident, etc. can be utilized to generate a case number.
 - SAFE kit number and LE case number should be linked.

Step 3: Tracking Anonymous Reports and Forensic Kits

- The hospital patient account number will link the evidence and sexual assault kit to the victim for future reference (recommended in state protocol).
- Outside of kit marked with:
 - A sticker identifying the one-year storage period end date;
 - A sticker identifying the date the forensic evidence collection kit was performed; and
 - Hospital account number.

- Tracking anonymous reports and forensic kits:
 - No personally identifying information shall be placed on the outside of the forensic evidence collection kit. This can include, but is not limited to:
 - Name; postal address; email address; cell phone or telephone number; facsimile; social security number; date of birth; racial, ethnic, or religious identity; or
 - Any other combined information that could serve to identify an individual.

Step 4: Chain of Evidence, Length of Storage

- Sexual assault evidence collection kits and other evidence collected for victims whose identity is unknown to law enforcement shall be maintained in the same manner as any other forensic evidence collection kit and evidence.
- Sexual Assault Evidence Collection Kits where the identity of the victim is unknown must be kept secure and chain of custody must be preserved for a period of one (1) year (365 days) from the date of collection.
- Sexual Assault Evidence Collection Kits and other evidence collected for victims whose identity is unknown *shall not be opened unless the victim reports the sexual assault to law enforcement.*
- Opening the Sexual Assault Evidence Collection Kit will compromise the admissibility of evidence for the purposes of prosecution.

*****Spousal Rape*****

- If the victim reports that the individual perpetrating the sexual assault is the victim's legal spouse, the victim has only thirty (30) days to report to law enforcement under South Carolina law.
- Victims should receive this information, to be fully informed of their choices. However, the choice of whether to report is still completely the victim's decision.

Step 5: Length of Storage

- One year storage of anonymous report and forensic evidence collection kits
- Evidence will be stored in an environmentally controlled storage unit until
 - the victim desires to move forward with law enforcement investigation; or
 - a period of one (1) year, whichever comes first.
- Forensic evidence collection kits and other evidence collected for victims whose identity is unknown to law enforcement shall be maintained in the same manner as any other forensic evidence collection kit and evidence.
- For storage purposes, only clothing that was next to the genitals will be collected, unless the circumstances of the assault warrant collecting additional clothing.
- **No evidence shall be destroyed prior to the one year time period.**

Step 6: Notification of victim prior to expiration of the one year storage deadline

- If the victim does not elect to initiate a law enforcement investigation within eleven (11) months:
 - a victim advocate from the local rape crisis program (SCCADVASA member programs) serving the county in which the anonymously reported sexual assault occurred will confidentially notify the victim that the storage time is about to reach a conclusion, providing the victim with an opportunity to initiate law enforcement investigation and prosecution, if s/he so desires.

- Notification to victim prior to expiration of the one year storage deadline
 - It is the victim's responsibility to update contact information with the local rape crisis program if they desire to be notified one month prior to the end of the one year storage time for anonymous reports/kits.

At the time of the anonymous report, the victim will choose how s/he wants to be notified. No messages may be left for the victim unless indicated in writing at the time of the anonymous report.

Appendix B: Sexual Assault Laws in South Carolina

For access to the South Carolina Victims' Bill of Rights please use the following link, specifically Article 1, Section 24:

<http://www.scstatehouse.gov/sconstitution/scconst.php>

For access to the most recent criminal laws, please use the following link, specifically Crimes and Offenses - Title 16, Chapter 3; Title 16, Chapter 15 and Criminal Procedures - Title 17:

<http://www.scstatehouse.gov/code/statmast.php>

Appendix C: South Carolina Sexual Assault Resource and Advocacy Centers

CASA/Family Systems

Serves Orangeburg, Calhoun & Bamberg Counties (Sexual Assault and Domestic Violence)

Phone: 803-534-2448
Hotline: 1-800-298-7228
Address: CASA/Family Systems
P.O. Box 1568
Orangeburg, SC 29116

Cumbee Center to Assist Abused Persons

Serves Aiken, Barnwell & Allendale Counties for Domestic Violence; Aiken, Barnwell, Allendale, Edgefield, Saluda & McCormick Counties for Sexual Assault Issues

Website: www.cumbeecenter.org
Phone: 803-649-0480
Hotline: 803-641-4162
Address: Cumbee Center to Assist Abused Persons
P O Box 1293
Aiken, SC 29802

Family Resource Center

Serves Kershaw & Lee Counties (Sexual Assault)

Phone: 803-425-4357
Hotline: 1-800-585-4455
Address: Family Resource Center
PO Box 282
Camden, SC 29020

Foothills Alliance

Serves Anderson & Oconee Counties (Sexual Assault)

Website: www.foothillsalliance.org
Phone: 864-231-7273
Hotline: 1-800-585-8952
Address: Foothills Alliance
216 East Calhoun Street
Anderson, SC 29621

Hope Haven of the Lowcountry: Children's Advocacy and Rape Crisis Center

Serves Beaufort, Colleton, Hampton & Jasper Counties (Sexual Assault)

Phone: 843-524-2256
Hotline: 1-800-637-7273
Address: Hope Haven of the Lowcountry: Children's Advocacy and Rape Crisis Center
P.O. Box 2502
Beaufort, SC 29901

Julie Valentine Center

Serves Greenville County (Sexual Assault)

Website: www.julievalentinecenter.org
Phone: 864-331-0560
Hotline: 864-467-3633
Address: Greenville Rape Crisis & Child Abuse Center
2905 White Horse Road
Greenville, SC 29611-6120

Palmetto Citizens Against Sexual Assault

Serves Lancaster, Chester & Fairfield Counties (Sexual Assault)

Phone: 803-286-5232
Hotline: 1-888-790-8532
Address: Palmetto Citizens Against Sexual Assault
106 N. York Street
Lancaster, SC 29720

People Against Rape

Serves Charleston, Berkeley, & Dorchester Counties (Sexual Assault)

Website: www.peopleagainstrape.org
Phone: 843-745-0144
Hotline: 1-800-241-7273
Address: People Against Rape
2154 N. Center St., Suite 302
North Charleston, SC 29406

Pee Dee Coalition Against Domestic & Sexual Assault

Serves Florence, Darlington, Marion, Chesterfield, Marlboro, Dillon & Williamsburg Counties (Domestic Violence and Sexual Assault) and Clarendon County (Sexual Assault)

Website: www.peedeecoalition.org
Phone: 843-669-4694
Hotline: 1-800-273-1820
Address: Pee Dee Coalition Against Domestic & Sexual Assault
P.O. Box 1351
Florence, SC 29503

Rape Crisis Center

Serves Horry & Georgetown Counties (Sexual Assault)

Website: www.victimtosurvivor.org/
Phone: 843-448-3180
Hotline: 843-448-7273
Address: Rape Crisis Center
P.O. Box 613
Myrtle Beach, SC 29578-0613

Rape Crisis Council of Pickens County

Serves Pickens County (Sexual Assault)

Phone: 864-442-5500
Hotline: 864-442-5500
Address: Rape Crisis Council of Pickens County
P.O. Box 2952
Easley, SC 29641

SAFE Homes - Rape Crisis Coalition

Provides Domestic Violence Services to Spartanburg, Cherokee & Union Counties and Sexual Assault Services to Spartanburg and Cherokee Counties

Website: www.shrcc.org/
Phone: 864-583-9803
Hotline: 1-800-273-5066
Address: SAFE Homes - Rape Crisis Coalition
236 Union Street
Spartanburg, SC 29302

Safe Passage Inc.

Provides Domestic Violence Services to York, Chester & Lancaster Counties and Sexual Assault Services to York and Union Counties

Website: www.safepassagesc.org
Phone: 803-329-3336
Hotline: 1-800-659-0977
Address: Safe Passage Inc.
P.O. Box 11458
Rock Hill, SC 29731

Beyond Abuse

Serves Greenwood, Laurens & Abbeville Counties (Sexual Assault)

Website: www.beyondabuse.info

Phone: 864-227-1623

Hotline: 864-441-6700

Address: Beyond Abuse
P.O. Box 693
Greenwood, SC 29648

Sexual Trauma Services of the Midlands

Serves Richland, Lexington, Newberry & Sumter Counties (Sexual Assault)

Website: www.stsm.org

Phone: 803-790-8208

Hotline: 1-800-771-RAPE (7273)

Address: Sexual Trauma Services of the Midlands
3700 Forest Drive, Suite 350
Columbia, SC 29204

Appendix D: Victim Assistance Resources

National Organization for Victim Assistance (NOVA)

www.trynova.org

National Association for Victim Assistance

510 King Street, Suite 424, Alexandria, VA 22314

(800) 879-6682 (800-TRY-NOVA); Office: (703) 535-6682

RAINN (Rape, Abuse & Incest National Network)

1220 L Street NW, Suite 505, Washington, DC 20005

(800) 656-HOPE (4673)

www.rainn.org

South Carolina Victim Assistance Network (SCVAN)

www.scvan.org

113 Executive Pointe Blvd., Suite 202, Columbia, SC 29210

(888) 852-1900; (803) 750-1200

Email: Ward@scvan.org

State Office of Victim Assistance (SOVA)

www.sova.sc.gov

1205 Pendleton Street, Edgar A. Brown Building, Room 401, Columbia, SC 29201

(803) 734-1900; Victims Only: 1(800) 220-5370

Email: sova@oepp.sc.gov

South Carolina Coalition against Domestic Violence and Sexual Assault (SCCADVASA)

www.sccadvasa.org

1320 Richland Street, Columbia, SC 29201

P.O. Box 776, Columbia, SC 29202

(803) 256-2900

S.C. Law Enforcement Victim Advocate ASSOCIATION (SCLEVA)

www.scleva.com

President: Leigh Caldwell, lcaldwell@cherokeecountysheriff.net or contact local law enforcement agency

US Department of Justice – Office For Victims Of Crime (OVC)

www.ojp.usdoj.gov/ovc

U.S. Department of Justice, 810 Seventh St. NW, 8th Floor, Washington DC 20531

(202) 307-5983