

# **Texas Model Protocol For Responding to Sexual Assault**

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The following organizations produced model protocols prior to the development of the Texas protocol. They offered valuable sources of insight and knowledge on the topic of responding to sexual assault and served as resources and guides for developing a Texas-specific, victim centered model protocol.

- Minnesota Model Protocol Project  
*Model Sexual Assault Protocol*
- State of Arizona, Office of the Attorney General  
*Recommended Guidelines for a Coordinated Community Response to Sexual Assault*
- San Diego County, Sexual Assault Response Team  
*Standards of Practice, For Members of the Interdisciplinary SART Team*
- West Virginia Foundation for Rape Information and Services  
*West Virginia Protocol for Responding to Victims of Sexual Assault*
- California Coalition Against Sexual Assault  
*California Sexual Assault Response Team Manual*

This report will be available for download on the TAASA website ([www.taasa.org](http://www.taasa.org)). For additional information on this process and the model protocol, please contact the author:

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## Introduction

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Residents of every community expect a swift, sensitive and coordinated response to sexual assault. Competency is expected at all levels, including first responders (e.g. paramedics and patrol officers), advocates, investigators, medical professionals, prosecutors and, potentially, parole and probation officers. A sexual assault survivor should experience a team of supportive professionals effectively coordinating their roles and duties with the victim's/survivor's best interest at heart.

A principal component of these guidelines is that communities should work together to create a better system for responding to victims of sexual assault. This collaboration has the potential to strengthen the response of individual agencies and unite them into a coordinated team approach. No one agency can successfully handle all aspects of a sexual assault. Each agency is important and has its strengths and limitations.

Communities are encouraged to form a multi-jurisdictional, interdisciplinary Sexual Assault Response Team (SART). The primary objectives of the SART are:

- To improve the provision of services to survivors of sexual assault in a particular city/county/district by providing sensitive, efficient, interdisciplinary services, and
- To ensure accurate evidence collection to promote the apprehension and prosecution of perpetrators.

It is important to note that these are guidelines only. Just as every community is different, all facets of these guidelines may not work for every community. Local customization may be necessary and is encouraged. Feel free to use this protocol as an example of a well-considered plan for responding to sexual assault and alter it to fit the needs of your community. Conflicts with these guidelines and local policies/protocols may be used as an opportunity to review procedures for their purpose and effectiveness.

A “victim centered approach” was central in the formation of these guidelines and is repeated throughout the manual. It means that the needs and interests of survivors are of central concern to system personnel as they respond. The victim centered approach rests on the understanding that the survivor's participation is encouraged throughout the process. This allows agencies within the criminal justice system to effectively exercise their duties and also increases the victim's well being and sense of justice. At times a survivor's non-offending parents, guardians or caregivers may be the primary person interacting with the different members of the SART Team. If that is the case, the same compassion and respect should be extended to these secondary victims.

Survivors who are blamed for their victimization or who are pushed to participate in a process against their will are far less likely to participate throughout the difficult process of criminal investigation and trial. Not only do we re-victimize them in this type of intervention, but in many instances survivors have critical information that is lost when we alienate them. Public safety is jeopardized when sexual assault survivors do not

report for fear of being re-victimized by the criminal justice system. A victim centered approach means a speedier recovery for the victim and more cooperation from the victim, making for a better case.

A survivor should feel like a valued member of the response team and the survivors' needs and interests should be prioritized as a central concern throughout the process. Survivors, their caregivers, family and friends will only come to the criminal justice system if they think their concerns will be addressed. In addition, because the criminal justice system can be difficult to navigate, even under the best of circumstances, survivors should be encouraged and assisted to develop a strong support system. The investigation of a sexual assault is not something anyone should try to "go alone."

The ideal system has the following characteristics:

- The need for crime victims to assume control over their own lives is recognized and supported.
- The safety of the victim is always a top priority.
- Cases are vigorously investigated.
- Offenders are apprehended and aggressively prosecuted in a timely fashion.
- Crime victims are kept informed at each stage of the proceedings.
- Crime victims are given the opportunity to express a preference for what they would like to see happen.
- Special sensitivity and awareness is demonstrated when working with victims from a cultural or societal group that differs from that of the investigator, prosecutor, victim advocate and/or medical personnel.
- Coordination between responding agencies is high. All seek to collaborate on shared goals.

Confidentiality is an important factor when working with sexual assault victims. Because of the shame and embarrassment often felt by sexual assault survivors, it is doubly important to maintain confidentiality in these cases.

While many of these guidelines focus on the treatment of crime victims who are reporting their crime to law enforcement, not all victims choose to report. It is important that these victims are not abandoned. Rape crisis center advocates spend much of their time with victims who choose not to report. Criminal justice and health professionals who come in contact with victims who did not report their assault should remain respectful and encourage the survivor to contact them if they change their mind or have any questions.

For administrative contact information for your nearest rape crisis center, call TAASA at (512) 474-7190 or go to [www.taasa.org](http://www.taasa.org). The RAINN Hotline 1-800-656-HOPE will automatically connect you to the 24-hour hotline of the rape crisis center that is closest to you.

**Note:**

The terms “survivor,” “victim,” and “patient” are used by different types of professionals to identify the sexually assaulted person. This protocol will use the term “survivor” for consistency and as recognition of the optimism and positive qualities that the word “survivor” has. With that in mind, this protocol may refer to the sexually assaulted person by “victim” or “patient” when the use of those terms makes the most sense and especially within the sections of this protocol where those terms are most applicable.

# Advocates

## Advocates

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Rationale: The advocate provides support, reassurance, crisis intervention, safety planning, and information to the survivor during the medical, investigative, and judicial process.

Outcome: The survivor feels empowered and supported through the medical, investigative and judicial process.

The primary objective of a sexual assault advocate is to inform, support and accompany survivors and their families through the aftermath of sexual assault.

Advocates often accomplish this objective by:

- Providing crisis intervention.
- Normalizing the feelings of the survivor.
- Educating and providing information to the survivor and family/friends about what the survivor may be experiencing emotionally and/or physically and what the survivor may still have to go through either emotionally or physically.
- Educating and informing the survivor and family/friends about what procedural events may follow.
- Providing support to the victim during the medical/forensic exam.
- Providing additional support through the criminal justice and/or recovery process.
- Providing information about crime victims' rights.
- Assisting survivors in negotiating the medical, criminal justice systems and any other systems they must navigate due to the sexual assault.

A key function of the advocate is to provide continuity of care. The advocate has the only role which can be present throughout every step of the criminal justice system and/or the survivor's recovery.

An advocate may be a volunteer or employee in one of several programs, agencies or departments. Advocates offer emergency assistance and long-term support to victims and their families. Traditionally, advocates are found:

- In rape crisis centers or other victim service programs.
- In victim/witness or victim assistance programs in police departments or prosecutors' offices.
- Within social services on a military base.

Services for victims of sexual assault vary in different regions and not all Texas communities, as yet, have a full range of services. Local needs, issues, problems and resources often affect the spectrum of available services, which may include any or all of the following:

- 24-hr hotline
- Crisis intervention
- Hospital accompaniment

- ✦ Law enforcement accompaniment
- ✦ Court accompaniment
- ✦ Systems advocacy
- ✦ Peer support and/or therapeutic counseling

The advocate(s) should remain mindful that advocacy is but one component of a multidisciplinary team, and that the team concept is crucial in ensuring a *VICTIM CENTERED* approach to the response.

The Victim Centered Approach means that the needs and interests of victims are of central concern to system personnel as they respond. For an advocate this means:

1. Advocating on behalf of the survivor's rights.
2. Abstaining from any part of the process that the survivor does not want the advocate to attend.
3. Giving full consideration to survivor's wants and needs and when presented with conflicting choices, defers to the choice of the survivor.
4. Ensuring the survivor has the information and knowledge to enable them to make informed decisions.
5. Respecting the human dignity and the uniqueness of the victim, unrestricted by considerations of ethnic, age, social or economic status, personal attributes, sexual orientation, disability or the nature of the health problems.
6. Maintaining respect for the survivor in interdisciplinary communications.
7. Facilitating communications between all SART members and the survivor.
8. Working collaboratively with team members to ensure the provision of quality services to the survivor.
9. Reinforcing explanations by SANE/Healthcare provider, law enforcement, prosecution and professional counselor when appropriate.
10. Acting as a liaison between SART members and the survivor.

A formal training program for volunteer and paid advocates should be available from the rape crisis center. The Office of the Attorney General (OAG) certifies advocate training programs throughout Texas. While training from a certified program is recommended, it is not a requirement. Contact the Sexual Assault Prevention and Crisis Services Program at the OAG's office (512 936-1270 or <http://www.oag.state.tx.us/victims/sapcs.shtml>) for information about certified advocate training programs.

Applicable statutes:

CCP Art. 56.02. Crime victims' rights

CCP Art. 56.06. Costs of medical examination

CCP Art. 56.045. Presence of Advocate or Representative During Forensic Medical Examination

*Note: See Appendix A for code of criminal procedure citations*

## **Recommended Protocol for Advocates:**

### Hospital Advocacy:

1. Arrive at the hospital within a timely fashion after the call from the hospital or law enforcement.
2. Notify hospital registration that you have arrived and inquire about the whereabouts of the survivor. Follow local HIPAA (Health Insurance Portability and Accountability Act) protocol if applicable.
3. Greet survivor and survivor's family/friends. Identify yourself and the program you represent and that you are here to offer support and information.
4. Inform the survivor that anything s(he) says to the advocate is confidential and will not be repeated to anyone without his/her permission or a court order.
5. Inquire if there is anything the survivor needs.
6. Offer to contact family or friends.
7. Provide information and emotional support:
  - Reassure the survivor that s(he) is now safe
  - Provide empathy and support
  - Validate the survivor's responses
  - Let the survivor know you are available to listen
  - Discourage feelings of guilt and self-blame
  - Listen
8. Offer to accompany the survivor during the exam.
9. Explain to the survivor that s(he) has the right to ask any questions s(he) may have at any time before, during or after the exam.
10. Be prepared to answer any questions regarding the forensic/medical exam.
11. Regularly inquire if the survivor has any questions.
12. Inform the family/friend(s) in the waiting room of the progress of the exam at the survivor's request
13. Provide information and support for the family/friend(s) of survivor
14. At the request of the survivor and as appropriate for an advocate, assist with comfort needs. (e.g. blanket, extra pillow)
15. If law enforcement is present:
  - Introduce yourself and the agency you represent
  - Explain, if needed, the role of the advocate
  - Inquire as to whether or not the officer has any requests
11. Encourage the survivor to make a follow-up appointment in two weeks with her/his personal physician or other medical provider.
12. Inform the survivor about rape crisis center services and other relevant community resources. Provide written information to the survivor on how to access rape crisis center services including the 24-hour hotline number.
13. Provide a written copy of Victim's Rights to the survivor.
14. Facilitate access to other services as needed.
15. Ensure that the victim has clothes when departing this hospital and does not have to leave wearing hospital issued clothing.
16. Ensure that the victim leaves the medical facility safely, with family, friend, or law enforcement. Help to arrange for transportation if needed.

17. Assess sense of safety at time of discharge and help to arrange for safe housing if needed

If the medical/forensic exam has already started, look for family/friends of the survivor and law enforcement. After the medical/forensic exam is over, approach the survivor to offer information and support.

### **Follow-up**

Within 72 hours, the advocate will:

- Contact the survivor. (Check agency specific protocol to determine if permission is required from survivor for follow-up)
- Explain that the rape crisis center is available for supportive services including law enforcement accompaniment, court accompaniment, counseling services, assistance with completing crime victims compensation forms, referrals to other, remind survivor to follow-up with medical contacts, remind about CVC payments
- Inquire if there is anything else the advocate can do at the time.

### **Law Enforcement Advocacy – (as appropriate)**

1. Inquire as to which detective is handling the case.
  - Ask if the detective has any requests.
  - Obtain updates on the progress of the case.
1. When requested by the survivor to be present during follow-up interviews
  - Contact the detective and inform him/her of the survivor's request.
  - Ask if the detective has any requests.
2. In all phases of the investigation, provide accompaniment, emotional support, information and advocacy for the survivor.

### **Court Advocacy**

1. Inquire as to which assistant district attorney is handling the case.
  - Ask if the attorney has any requests.
  - Obtain updates on progress of the case.
2. When requested by the survivor to be present during interviews with the district attorney's office
  - Contact the assistant district attorney and inform him/her of the survivor's request.
  - Ask if the assistant district attorney has any requests.
3. In all phases of the case, provide accompaniment, emotional support, information and advocacy for the survivor.



# Law Enforcement

## Law Enforcement

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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, 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 well being 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, and that 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 survivors are of central concern to system personnel as they respond. For a law enforcement officer this means:

1. Enhancing cooperation between the law enforcement agency and community organizations that may assist the victim(s).
2. Giving victims choices and options whenever possible.
3. Demonstrating sensitivity by using non-judgmental questions, comments, and body language.
4. Establishing and maintaining liaison with area law enforcement commands and Crime Victim Liaisons, and specialized units such as Sexual Assault Programs, Advocacy Centers, Child and Adult Protective Services and community medical/forensic services.
5. Facilitating communication within the law enforcement agency and among members of the Multidisciplinary Team.
6. Maintaining respect for the survivor in interdisciplinary communication.
7. Avoiding premature judgments. Sexual assault cases often seem counter-intuitive 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.

The following protocol items are not intended to serve as a detailed guide to investigating sexual assault, but should provide sufficient information to ensure that the law enforcement officer takes a victim centered approach. For more specific investigative instruction, the law enforcement officer should refer to the *Texas Evidence Collection Protocol* available through the Texas Office of the Attorney General.

([www.oag.state.tx.us/AG\\_Publications/pdfs/evidence\\_collection.pdf](http://www.oag.state.tx.us/AG_Publications/pdfs/evidence_collection.pdf))

### **Recommended Protocol for Dispatch:**

1. Determine if the victim is in need of emergency medical treatment and is in a safe environment.
2. Obtain pertinent case information and accurately relay information to responding officer.

### **Recommended Protocol for Responding Officer:**

1. Ensure the immediate safety and security of the victim. Call an ambulance if major injury is noted or suspected.
2. Determine special needs of victim, if any. For example, are there language barriers, 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?
3. Determine if the suspect is present at the crime scene. If not, obtain a description and/or identification of suspect and consider the need for a crime broadcast.
4. Locate and identify witness(es).
5. Conduct a brief, preliminary interview of the victim in a separate private area to determine whether and what crime(s) may have occurred and where evidence might be located.
6. At the crime scene, secure all physical evidence that would normally be taken at the scene of any major crime; including, but not limited to, fingerprints, trace evidence, photographs of the crime scene, the victim's clothing, and any evidence that may be immediately collected from the victim's person. If the victim has changed clothes since the assault, ask for any clothing that was worn at the time of the assault.
7. Explain to the victim that such evidence may be inadvertently destroyed by such activities as washing, showering, brushing teeth, using mouthwash, smoking, eating, drinking, douching, urinating, or defecating.
8. Explain to the victim the importance of preserving potentially valuable evidence which may be present on clothing worn during the assault, after the assault, and on bedding or other items/materials at the assault scene.

If the sexual assault occurred less than 72 hours prior\*

9. Inform the victim of the importance of seeking an *immediate* medical/forensic examination (A specially trained health care provider should be utilized if available); advise the victim that he/she is not responsible for the cost of the *forensic* portion of the examination (CCP Art. 56.06).

\*The 72 hour time frame is a guideline for the collection of forensic evidence. New guidelines, including the International Association of Forensic Nurses, recommend a 96 hour time frame due to the advances in technology that can identify minute amounts of DNA. In addition, it may be possible to collect evidence past the 96 hour window, depending on circumstances. Some protocols suggest a forensic exam up to 120 hours after the assault. The individual circumstances of each case should be considered when deciding whether to collect evidence after the assault. Each SART should determine the number of hours that will be used as a guideline for the collection of forensic evidence in their community.

Should the victim choose to seek medical treatment and/or undergo a medical/forensic examination, the law enforcement officer should:

10. Notify the appropriate facility that a sexual assault victim is coming to the medical facility for a medical/forensic examination.
11. Ensure that the victim has transportation to and from the appropriate facility.
12. Advise the victim of the importance of preserving potentially valuable physical evidence prior to the medical/forensic examination.
13. Recommend that the victim bring a change of clothing to the forensic examination site in the event that his/her clothing is collected for evidentiary purposes.
14. Ensure that the appropriate sexual assault program is notified so an advocate may be dispatched.
15. Request a private waiting area for the sexual assault victim, if one is not designated.
16. Promote cooperative interaction between multidisciplinary team members (i.e. utilize sexual assault advocates to assist in calming and building rapport with victim).
17. Take measures to ensure chain of custody for the sexual assault kit.
18. Be aware of signs and/or statements that imply a drug facilitated sexual assault. In these cases, ensure that urine and blood samples are obtained and preserved.
19. Advise the victim of his/her rights as a crime victim (CCP Art. 56.02), and the availability of and contact information for support services (sexual assault advocacy programs, Crime Victim Liaison, Crime Victim's Compensation, etc.). Provide the victim with (and review) the appropriate "Victim Information Brochure" (CCP 56.07).
20. Inform the victim of his/her right to choose a pseudonym (CCP 57.02) and assist the victim in completing the pseudonym form.

If the assault occurred over 72 hours ago\*:

21. Schedule a non-acute medical/forensic exam. During this exam, the victim will be medically examined and evaluated for injuries. A medical forensic record will be created; forensic evidence may or may not be collected.
22. Obtain all information necessary to complete the initial offense report. This would include the preliminary interviews of all witnesses (including the victim and outcry witness(es)). The report should include primary and alternate telephone numbers and physical addresses for follow-up victim contact. The elements of the offense(s) should be listed in the initial report.
23. Explain each step of the investigation and what the victim should expect, especially the need to ask personal, detailed information relative to the assault.
24. Advise the victim of his/her rights as a crime victim (CCP Art. 56.02), and the availability of and contact information for support services (sexual assault advocacy programs, Crime Victim Liaison, Crime Victim's Compensation, etc.). Provide the victim with (and review) the appropriate "Victim Information Brochure" (CCP 56.07).

25. Inform the victim of his/her right to choose a pseudonym (CCP 57.02) and assist the victim in completing the pseudonym form.

Although explicit details of the sexual assault are not normally needed at this point in the investigation, the initial report should include all elements of the offense.

A preliminary victim interview is necessary to permit the reporting officer to relay accurate information that may be vital in the identification and apprehension of the offender. However, this should not delay emergency medical treatment.

**Recommended Protocol for Investigating Officer:**

1. Review crime report.
2. Make contact with the victim; provide support and transportation when necessary.
3. Interview victim and verify/clarify the contents of the preliminary investigation.
4. Interview witness(es).
5. Submit request to crime laboratory to analyze physical evidence. Consult with crime laboratory on the outcome of the analysis.
6. Check crime scene and obtain appropriate photographs.
7. If suspect is unknown, attempt to identify suspect.
8. Conduct investigational research, if applicable, on the prior history of the suspect, including information available through the sex offender registry, prior police reports involving the suspect, victim or witnesses, prior unreported allegations involving the suspect, victim or witnesses, current and prior Child or Adult Protective Services reports.
9. Disseminate a crime intelligence bulletin to area police departments about the offense.
10. Question suspect(s), obtain arrest warrants and/or search warrants
11. If suspect is identified and the elements of the crime exist, submit follow-up investigation report to the district attorney's office or city attorney's office and follow procedure for arrest of suspect.
12. Prepare and submit all preliminary and follow-up investigation reports to the district attorney's office.
13. Provide the victim with timely updates on the status of the investigation and the final disposition as soon as possible.
14. Consult with the prosecutor's office, victim/witness assistance, rape crisis center, etc., to prepare the victim for court appearances.
15. Provide information about Victim Information & Notification Everyday (VINE).



# Healthcare Providers

## Healthcare Providers

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In this component of the Protocol, the survivor will be referred to as patient, to reflect the person's actual status when dealing with healthcare providers.

The primary objectives of the healthcare provider are to provide:

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

Healthcare providers accomplish this by:

- Providing assessment and treatment of the patient, assuring life-threatening injuries are identified and treated.
- Treating the patient as one would any other traumatized patient that is seen in a medical facility.
- Remembering that the patient is a crime scene.
- Providing timely, priority care to the patient.
- Providing a medical forensic examination by specially trained medical professional.
- Providing treatment appropriate to the patient's injuries, including but not limited to prophylaxis for sexually transmitted infections and emergency contraceptive protection.
- Providing written instructions to the patient, detailing what further medical care they should seek, referrals to other healthcare providers and the local advocacy agency.
- Maintaining the confidentiality of the patient and integrity of the medical forensic record.

### The Healthcare Provider

A healthcare provider is either:

1. A registered nurse, licensed by the Texas Board of Nurse Examiners.
2. A nurse practitioner, licensed by the Texas Board of Nurse Examiners.
3. A physician assistant, licensed to practice in the State of Texas.
4. A physician, licensed to practice in the State of Texas.

Healthcare providers should be specially trained to provide comprehensive care to the patient. Suggested training is as follows:

Registered Nurse:

1. Complete the OAG SANE Training, including didactic and clinical with preceptored practice and criminal court observation.
2. Eligible for certification as a Certified Adult and/or Pediatric SANE through the OAG.

Nurse Practitioner:

1. Complete the OAG SANE Training, including didactic and clinical with preceptored practice and criminal court observation.

2. Eligible for certification as a Certified Adult and/or Pediatric SANE through the OAG.

Physician Assistant:

1. Complete the OAG SANE Training, including didactic and clinical with preceptored practice and criminal court observation.
2. Adheres to the Standards of Practice as set out in the American College of Emergency Physicians (ACEP).

Physician:

1. Adheres to the Standards of Practice as set out by the ACEP.
2. Reads and understands the American College of Obstetricians and Gynecologists recommendation on treating sexual assault patients.

The health professional(s) should remain mindful that medical care and forensic evidence collection is but one component of a multidisciplinary team response to sexual assault, and that the team concept is crucial in ensuring a *VICTIM CENTERED* approach to the response.

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

1. Be an advocate for the patient's physical and psychosocial well being.
2. Provide the patient with a safe, secure and private place for their exam and treatment.
3. Ensure patient confidentiality is maintained.
4. Ensure that the medical/forensic examination is conducted.
5. Serve as an advocate of the truth by creating an accurate and truthful medical forensic record that will assist in the investigation of the legal case by the law enforcement agency.

### **The Medical Facility**

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

1. A dedicated room, or a room that can be easily converted to use for the examination. The room should be able to be locked from the inside, and have a bathroom and/or shower attached.
2. A quiet comfortable place, out of the public spaces of the facility where the patient can wait for the examination to begin. Also this space can be used by advocate accompaniment, clinical support staff and law enforcement officer to speak with and counsel the patient, their partner and/or family.
3. Appropriate equipment available to magnify body surfaces, ability to illuminate body surfaces with alternate light source, to allow accurate identification of the patient's injuries and facilitate the accurate documentation of them.

4. Specially trained medical professionals to conduct the medical/forensic examination.
5. Specially trained medical professionals to present fact and expert witness testimony in court without the medical professional experiencing personal financial loss.
6. Confidentiality and integrity of the medical/forensic records, held in a secure location, with limited access. Maintain a record of those that see or obtain a copy of this record.

Not every medical facility in the SART's locality will be able or want to provide these services to the sexual assault patient. Provision of comprehensive care will involve significant set up costs. A facility may not be able to afford such an investment in equipment, room, staff training and compensation. If a facility decides to opt out, a procedure should be in place to facilitate the timely transfer of the patient to the designated facility. Once the medical facility has been designated, all components of the SART need to make their members aware of the designation, so that the patient will be taken to the designated facility, minimizing the delay in the performance of the medical forensic examination.

Many communities have become creative in the way that they provide comprehensive care to the patient. These can include, but are not limited to:

1. A stand alone clinic, not necessarily in one of the SART member's buildings, provided usually through collaboration between the SART members. The clinic usually has its own building and specialized equipment not associated with a medical facility. There is a medical director and specially trained medical professionals who provide comprehensive care to these patients.
2. Medical facilities with a dedicated space for medical forensic exams, used only for the patient, with specialized equipment, a medical director and specially trained medical professionals to provide comprehensive care to the patient.
3. Medical facilities without a designated location, with/without specialized equipment, with specially trained medical professionals who wish to provide comprehensive care to these patients.
4. Programs that provide a service that will travel to the location of the patient. This is a new concept, and its feasibility is yet to be assessed.

### **The Medical Forensic Examination:**

This section provides general recommendations for the medical forensic exam. Detailed steps for the collection of forensic evidence are provided in the Texas Evidence Collection Protocol.

Federal EMTALA legislation requires that persons presenting to a hospital emergency department must have a medical screening to determine if an emergent condition exists requiring intervention. Facilities that decide not to perform medical/forensic exams and instead, transfer patients to the designated facility must stabilize the patient and complete appropriate paperwork before transfer.

This examination is first and foremost a medical examination looking for traumatic injuries. It is an integral part of the medical process that provides compressive care of the patient.

This involves:

1. Assessment, such as gathering information concerning the patient's medical condition (history).
2. Formulating a diagnosis.
3. Formulating a medical care plan.
4. Intervention and care of injuries, collection of the forensic evidence, and administration of medications.
5. Reviewing the process to ensure all patient needs are addressed and referrals are made.

The medical/forensic examination is completed at the request of law enforcement that has received the complaint.

The patient signs a separate consent form, an example is in the Texas Evidence Collection Procedure, which covers:

1. Consent to the medical forensic examination.
2. Documentation of the patient's history and injuries.
3. Photographic documentation.
4. Releasing a copy of the medical/forensic record to the investigating law enforcement agency.

The medical/forensic examination involves four parts:

1. A detailed history, from the patient, of the assault.
2. A head to toe physical examination.
3. A detailed genital examination.
4. Identification and collection of forensic evidence.

### **Treatment Protocols:**

1. The patient is treated prophylactically for sexually transmitted infections, per the CDC guidelines.
2. Discuss the probability of pregnancy with patients.
3. Administer a baseline pregnancy test for all patients with reproductive capability.
4. Discuss treatment options with patients and provide them with immediate access to a full range of reproductive services, including emergency contraception.



# Prosecutors

## **Prosecutors**

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The primary objective of the prosecutor in a sexual assault case is to see that justice is done.

Prosecutors accomplish this by:

1. Prosecuting the perpetrator when sufficient, credible evidence exists.
2. Providing the victim with information relevant to the prosecution of the perpetrator.

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

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

1. Enhancing cooperation between the prosecutor's office and community organizations that may assist the victim(s).
2. Giving victims choices and options whenever possible.
3. Demonstrating sensitivity by using non-judgmental questions, comments, and body language.
4. Establishing and maintaining liaison with area law enforcement commands and Crime Victim Liaisons, and specialized units such as Sexual Assault Programs, Advocacy Centers, Child and Adult Protective Services and community medical/forensic services.
5. Facilitating communications within the prosecutor's office and among members of the Multidisciplinary Team.
6. Maintaining respect for the survivor in interdisciplinary communications.

### **Recommended Protocol for Prosecutors:**

1. Utilizes a vertical prosecution model including law enforcement, medical professionals and the victim in order to reduce the trauma to the victim.
2. Evaluates cases submitted by law enforcement.
3. Ensures that the victim is designated by a pseudonym in all documents and legal proceedings after notice from law enforcement of the election of a pseudonym by the victim (CCP Art. 57.02).
4. Determines if sufficient credible evidence exists to support prosecution.
5. Presents case to the grand jury after notifying victim and suspect.
6. Informs victims of the status of the case from the time of the initial charging decision to sentencing (CCP Art. 56.02(a)(3)(A)).
7. Discourages case's continuances.
8. Explains the reasons for continuances and seeks mutually agreeable dates for hearings that are rescheduled.
9. Arranges for interpreting services for victims and witnesses when necessary to assist a victim to understand questions and framed answers.

10. Brings to the attention of the court the views of the victim on bail decisions, continuances, plea bargains, dismissals, sentencing and restitution.
11. Pursues to the fullest extent allowable by law, those defendants who harass, threaten or otherwise attempt to intimidate or retaliate against victims or witnesses.
12. Arranges for the prompt return of the victim's property if it is no longer needed as evidence in court (CCP Art. 56.02(a)(9)).
13. Seeks no contact or protective orders as conditions of bail or personal recognizance release.
14. Includes the victim whenever possible in decisions concerning the filing of the case, grand jury presentation, the reduction of charges, plea bargain offers, dismissal or other possible case dispositions.
15. Provides the victim with a business card and the preferred time and method of contact.
16. Responds to inquiries by the victim as soon as possible.
17. Consults with law enforcement, health care personnel, and rape crisis advocates in the furtherance of the prosecution of the case.
18. Notifies the victim of his/her rights regarding HIV testing and available counseling regarding HIV and AIDS (CCP Art. 56.02(a)(11)).
19. Notifies the victim of the right to receive information regarding compensation from the crime victims compensation fund (CCP Art. 56.08(a) CCP Art. 56.02(a)(6)).
20. Advises the victim of his/her right to have a support person and advocate present during interviews and in court.
21. Discusses the case with all witnesses prior to trial date.
22. Uses time efficiently when requiring consultation from other team members.
23. Provides input and related teaching to medical personnel and law enforcement as an interdisciplinary member.

**Recommended Information the Prosecutor Should Provide to Victim:**

1. Orientation information about the criminal justice system and the victim's role CCP Art. 56.02(a)(4).
2. Notification of any change in the case status and the final disposition of the case CCP Art. 56.02(a)(3)(A).
3. Information on crime prevention and on available responses to witness intimidation.
4. A victim assistance coordinator as liaison for all victim services CCP Art. 56.04(a).
5. Victim impact statement and assistance, if requested, in completing form along with explanation of use of form in court system and for consideration in sentencing and plea negotiations CCP Art. 56.02(a)(13) CCP Art. 56.03(c).
6. Information about available Victim/Witness services to meet victim needs resulting from the crime and referral to other agencies, where appropriate.
7. Advanced notice of court hearings and purpose of hearing including arraignment, grand jury presentation, disposition hearings, pretrial hearing, trial, sentencing, and appeal CCP Art. 56.02(a)(3)(A).

8. Information about restitution and other forms of recovery and assistance.
9. A waiting area separate from the defendant, the defendant's family and other witnesses or other provision to minimize the victim's contact with them during court proceedings CCP Art. 56.02(a)(8).
10. Information about directions, parking, courthouse and courtroom locations, transportation assistance.
11. Assistance for victims and witnesses in meeting special needs, such as child care and transportation when required to make court appearances.
12. Assistance in making travel and lodging arrangements for out-of-state victims.
13. Notification to victims of the right to make an in-person statement, after sentencing, directly to the sentencing court, concerning the impact of the crime.
14. Provide victim with information about Victim Information Notification Everyday (VINE).

Prosecutors should take the opportunity during jury training to educate jury members concerning common misconceptions about sexual assault. This might include education on why a lack of evidence found during the medical/forensic exam does not necessarily mean the victim was not sexually assaulted or some of the common reasons why victims may not make their report immediately after the assault. In addition, prosecutors may take this opportunity to prepare jurors for potential graphic language and pictures that may be encountered during the trial.

# Sexual Assault Response Team (SART)

## **Sexual Assault Response Team (SART)**

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The primary objectives of the SART are to improve the treatment of survivors, case outcomes, efficiency and protection of the community by creating a victim centered response.

### **Guiding Principles**

- A. Survivors will feel safe and supported reporting sexual assault as they experience a professional community responding effectively, efficiently and in collaboration on behalf of themselves, their family, and the public safety.
  - 1. They will hear the abuse condemned as wrong.
  - 2. All team members will express their understanding of the scope and effects of sexual violence.
  - 3. The violation will be acknowledged and empathy expressed for the victim, i.e. that it should not have happened to them and that they did nothing to cause the offender to choose to attack them, etc.
  - 4. Survivors will be empowered to discuss the experience of loss that results from the assault.
  - 5. Survivors will have the right to make a statement about the impact of the crime at sentencing.
- B. Each and every survivor will be treated with compassion and respect.
  - 1. They will not be blamed for their victimization.
  - 2. They will be informed and have access to crisis intervention and support services whenever they are needed.
  - 3. Cultural diversity will be recognized and respected.
  - 4. Friends, family and peers of victims will be given the skills and information they need to provide meaningful support.
  - 5. Survivors will know that they are not to blame for their victimization.
  - 6. They will be kept abreast of the progress of their case through the criminal justice system.
  - 7. They will understand their options for financial restoration, restitution, and reparations.
- C. Survivors will be included as vital participants.
  - 1. They will be consulted about their desired outcome for the case.
  - 2. They will know their statutory rights and how to access them.
  - 3. They will know about the criminal justice system, including key roles, players, responsibilities and procedures.
  - 4. They will receive ongoing information about the status of their case.
  - 5. Information will be provided in a language the survivor can understand.
  - 6. They will have access to trained advocates throughout the process.
  - 7. Resources will be provided to enable their participation in the process.
- D. Team members will recognize and support survivors as they assume control over their own lives.
  - 1. Privacy and confidentiality will be maintained whenever possible, and the survivor will be informed before information is shared.

2. When survivors choose not to continue their legal cases, they will continue to be supported, respected and treated compassionately.
- E. Offenders will be held accountable
1. Community will foster an environment that encourages survivors to report sexual assaults.
  2. Witnesses to sexual assault will report the crimes.
  3. Victim-impact statements will be a standard part of the process.
  4. Suspects will be arrested to prevent further victimization.
  5. Offenders will be incarcerated as appropriate.
- F. All team members will work together effectively
1. Key providers necessary for effective response are active, equal members and include but are not limited to: advocates, law enforcement, healthcare providers, justice systems, other related professions, and institutions.
  2. Long term commitment to a quality protocol development cycle, not just producing a final product.
  3. Relationships among and between members and survivors will be based on equality, democratic principles, dignity and respect for cultural and socio-economic diversity.

### **Developing Collaboration and Coalition Capacity**

A total community response includes collective decision-making and coordinated action in order to effectively mobilize the appropriate professional resources. Through this approach individual jobs become easier, less isolated, more visibly appreciated, supported and accessed. The SART should strive for the following:

- ✦ A mission statement that is created and used as a tool, motivator, and reality check throughout the process.
- ✦ Active, equal and regular involvement of SART team members.
- ✦ Professional cross-training to develop expertise.
- ✦ Improving community ability to identify new resources.
- ✦ Increasing diverse participation.
- ✦ A diversity of leadership roles, skills, and styles are fostered, valued and shared.
- ✦ An image of the desired community condition, and who is responsible for what contribution.
- ✦ Goals to promote discussion, build consensus, balance the ideal with the achievable and bring individuals into the group.

### **Starting the Work Process**

A clear understanding of the team's identity and purpose from the beginning greatly accelerates progress by avoiding common obstacles and pitfalls. The following may be helpful when starting a SART:

1. Have a vision of how the system could be, how it ought to respond, where gaps and strengths lie, and the process of forming a coalition.
2. Use an inclusive open approach to learn how others fit in the system, their roles and what they do.
3. Identify areas of competing interests and dissention, use the opportunity to build trust among and between diverse resources.

4. Decide early on how conflict will be managed.
5. Facilitate a round table of as many diverse representatives as present in the community, and listen actively, taking notes and keeping record for the future.
6. Coordinate needs assessments to identify service gaps, widespread problems, and quality improvement opportunities.
7. Define protocol and procedures to clear up roles and increase accountability; formalize agreements in a memorandum of understanding between all agents.
8. Document a flow chart of how client services move through and around the current systems.
9. Set goals and timelines, with regular meetings and personal commitments for at least one year.

### **Continuous Quality Improvement Process**

A long-term commitment to a process that can build a team's skills, purpose, and communication. The following may be helpful when maintaining a SART:

1. Complete and share an inventory of existing services.
2. Complete and share a survivor experience survey.
3. Regularly review and share protocols and procedures.
4. Renew and share interagency agreements.
5. Ensure training and leadership succession processes are in place.
6. Complete, share and apply monitoring regimen.
7. Implement evaluation process.
8. Measure progress by keeping centralized files of coalition activity, preparing accurate minutes, providing brief periodic reports from major initiatives, produce annual reviews, and periodic briefs.

SART members may also serve an important role when a member(s) faces a particularly traumatizing case. Members of the SART are uniquely qualified because of their similar work experiences to empathize and support their colleagues on the SART team.

# Appendices

## Appendix A

### Code of Criminal Procedure Reference

The laws cited here are not meant to be exhaustive but are provided as a quick reference because they are referred to in the protocol. CCP refers to the Texas Code of Criminal Procedure. The text of the codes can be found on the Internet at [www.capitol.state.tx.us/statutes/statutes.html](http://www.capitol.state.tx.us/statutes/statutes.html).

#### CCP Art. 56.02. Crime Victims' Rights

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;

(3) the right, if requested, to be informed:

(A) by the attorney representing the state of relevant court proceedings, including appellate proceedings, and to be informed if those proceedings have been canceled or rescheduled prior to the event; and

(B) by an appellate court of decisions of the court, after the decisions are entered but before the decisions are made public;

(4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the procedures in criminal investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;

(5) the right to provide pertinent information to a probation department conducting a pre-sentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender;

(6) the right to receive information regarding compensation to victims of crime as provided by Subchapter B, including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter, the payment for a medical examination under Article 56.06 for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning a defendant

in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime subject to this subchapter, and to be notified, if requested, of the defendant's release;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the offender and relatives of the offender, before testifying in any proceeding concerning the offender; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the offender and the offender's relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;

(11) the right to counseling, on request, regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection and testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, if the offense is an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(12) the right to request victim-offender mediation coordinated by the victim services division of the Texas Department of Criminal Justice; and

(13) the right to be informed of the uses of a victim impact statement and the statement's purpose in the criminal justice system, to complete the victim impact statement, and to have the victim impact statement considered:

(A) by the attorney representing the state and the judge before sentencing or before a plea bargain agreement is accepted; and

(B) by the Board of Pardons and Paroles before an inmate is released on parole.

(b) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

(c) The office of the attorney representing the state, and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by Subsection (a) of this article and, on request, an explanation of those rights.

(d) A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article. The failure or inability of any person to provide a right or service enumerated in this article may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition. A victim, guardian of a

victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

Added by Acts 1985, 69th Leg., ch. 588, § 1, eff. Sept. 1, 1985. Subsec. (a) amended by Acts 1987, 70th Leg., ch. 433, § 1, eff. Aug. 31, 1987; Subsecs. (a), (c) amended by Acts 1987, 70th Leg., ch. 929, § 1, eff. Sept. 1, 1987; Subsec. (c) amended by Acts 1989, 71st Leg., ch. 996, § 1, eff. Sept. 1, 1989; Subsecs. (a), (d) amended by Acts 1991, 72nd Leg., ch. 202, § 3, eff. Sept. 1, 1991; Subsec. (a) amended by Acts 1993, 73rd Leg., ch. 811, § 3, eff. Sept. 1, 1993; Subsec. (a)(6) amended by Acts 1995, 74th Leg., ch. 76, § 5.95(108), eff. Sept. 1, 1995; Subsecs. (a), (b) amended by Acts 2001, 77th Leg., ch. 1034, § 3, eff. Sept. 1, 2001.

### **CCP Art. 56.06. Costs of Medical Examination**

(a) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of that examination if the examination was performed by a physician or by a sexual assault examiner or sexual assault nurse examiner, as defined by Section 420.003, Government Code.

(b) A law enforcement agency or prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the medical examination or manner in which it was performed.

(c) This article does not require a law enforcement agency to pay any costs of treatment for injuries.

Added by Acts 1989, 71st Leg., ch. 2, § 5.05(a), eff. Aug. 28, 1989. Subsec. (a) amended by Acts 1991, 72nd Leg., ch. 75, § 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1507, § 1, eff. June 15, 2001.

### **CCP Art. 56.07. Notification**

At the initial contact or at the earliest possible time after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall provide the victim a written notice containing:

(1) information about the availability of emergency and medical services, if applicable;

(2) notice that the victim has the right to receive information regarding compensation to victims of crime as provided by Subchapter B, Chapter 56, including information about:

(A) the costs that may be compensated under that Act and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that Act;

(B) the payment for a medical examination for a victim of a sexual assault under Article 56.06 of this code; and

(C) referral to available social service agencies that may offer additional assistance;

(3) the name, address, and phone number of the law enforcement agency's victim assistance liaison;

(4) the address, phone number, and name of the crime victim assistance coordinator of the office of the attorney representing the state;

(5) the following statement:

"You may call the law enforcement agency's telephone number for the status of the case and information about victims' rights"; and

(6) the rights of crime victims under Article 56.02 of this code.

Added by Acts 1991, 72nd Leg., ch. 202, § 5, eff. Sept. 1, 1991. Subd. (2) amended by Acts 1995, 74th Leg., ch. 76, § 5.95(108), eff. Sept. 1, 1995.

#### **CCP Art. 56.045. Presence of Advocate or Representative During Forensic Medical Examination**

(a) Before conducting a forensic medical examination of a person who consents to such an examination for the collection of evidence for an alleged sexual assault, the physician or other medical services personnel conducting the examination shall offer the person the opportunity to have an advocate from a sexual assault program as defined by Section 420.003, Government Code, who has completed a sexual assault training program described by Section 420.011(b), Government Code, present with the person during the examination, if the advocate is available at the time of the examination.

(b) The advocate may only provide the injured person with:

(1) counseling and other support services; and

(2) information regarding the rights of crime victims under Article 56. 02.

(c) Notwithstanding Subsection (a), the advocate and the sexual assault program providing the advocate may not delay or otherwise impede the screening or stabilization of an emergency medical condition.

(d) The sexual assault program providing the advocate shall pay all costs associated with providing the advocate.

(e) Any individual or entity, including a health care facility, that provides an advocate with access to a person consenting to an examination under Subsection (a) is not subject to civil or criminal liability for providing that access. In this subsection, "health care facility" includes a hospital licensed under Chapter 241, Health and Safety Code.

(f) If a person alleging to have sustained injuries as the victim of a sexual assault was confined in a penal institution, as defined by Section 1.07, Penal Code, at the time of the

alleged assault, the penal institution shall provide, at the person's request, a representative to be present with the person at any forensic medical examination conducted for the purpose of collecting and preserving evidence related to the investigation or prosecution of the alleged assault. The representative may only provide the injured person with counseling and other support services and with information regarding the rights of crime victims under Article 56.02 and may not delay or otherwise impede the screening or stabilization of an emergency medical condition. The representative must be approved by the penal institution and must be a:

- (1) psychologist;
- (2) sociologist;
- (3) chaplain;
- (4) social worker;
- (5) case manager; or
- (6) volunteer who has completed a sexual assault training program described by Section 420.011(b), Government Code.

Added by Acts 2001, 77th Leg., ch. 1019, § 1, eff. Sept. 1, 2001.

### **CCP Art. 57.02. Confidentiality of Files and Records**

(a) The Sexual Assault Prevention and Crisis Services Program of the Texas Department of Health shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim.

(b) A victim may choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. A victim who elects to use a pseudonym as provided by this article must complete a pseudonym form developed under this article and return the form to the law enforcement agency investigating the offense.

(c) A victim who completes and returns a pseudonym form to the law enforcement agency investigating the offense may not be required to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense.

(d) A completed and returned pseudonym form is confidential and may not be disclosed to any person other than a defendant in the case or the defendant's attorney, except on an order of a court of competent jurisdiction. The court finding required by Subsection (g) of this article is not required to disclose the confidential pseudonym form to the defendant in the case or to the defendant's attorney.

(e) If a victim completes and returns a pseudonym form to a law enforcement agency under this article, the law enforcement agency receiving the form shall:

(1) remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession;

(2) notify the attorney for the state of the pseudonym and that the victim has elected to be designated by the pseudonym; and

(3) maintain the form in a manner that protects the confidentiality of the information contained on the form.

(f) An attorney for the state who receives notice that a victim has elected to be designated by a pseudonym shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense.

(g) A court of competent jurisdiction may order the disclosure of a victim's name, address, and telephone number only if the court finds that the information is essential in the trial of the defendant for the offense or the identity of the victim is in issue.

(h) Except as required or permitted by other law or by court order, a public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a victim younger than 17 years of age may not release or disclose the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case. This subsection does not apply to the release or disclosure of a victim's identifying information by:

(1) the victim; or

(2) the victim's parent, conservator, or guardian, unless the parent, conservator, or guardian is a defendant in the case.

Added by Acts 1987, 70th Leg., ch. 571, § 1, eff. Sept. 1, 1987. Subsec. (h) added by Acts 2001, 77th Leg., ch. 1337, § 3, eff. Sept. 1, 2001.

## **Appendix B**

### **Additional Resources**

*Texas Evidence Collection Protocol* (1998). Texas Office of the Attorney General, Sexual Assault Prevention and Crisis Services Division.

([www.oag.state.tx.us/AG\\_Publications/pdfs/evidence\\_collection.pdf](http://www.oag.state.tx.us/AG_Publications/pdfs/evidence_collection.pdf))

*Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient.* (1999) American College of Emergency Physicians

*Strategies for the Treatment and Prevention of Sexual Assault.* American Medical Association.

*Nurse Practice Act of Texas.* Board of Nurse Examiners for the State of Texas

*Standards of Clinical Practice.* American Nursing Association.

*Scope and Standards of Forensic Nursing Practice.* International Association of Forensic Nurses.

*Sexual Assault Nurse Examiner Standards of Practice.* International Association of Forensic Nurses.

*Sexual Assault Nurse Examiners Education Guidelines.* International Association of Forensic Nurses.

*Guidelines for Treatment of Sexually Transmitted Infections.* CDC.

*Sexual Assault.* (1997) American College of Obstetricians and Gynecologists: Educational Bulletin, No.242  
([www.acog.com](http://www.acog.com))

## Appendix C

### Question and Answer

**Q: Does a victim have to make a report to law enforcement to apply for Crime Victims Compensation?**

**A:** Yes, an application for Crime Victims Compensation will not be accepted if a police report was not made.

**Q: What will Crime Victim's Compensation pay for?**

**A:** Crime Victims Compensation will pay for:

- ✦ Medical, hospital, physical therapy or nursing care.
- ✦ Psychiatric care or counseling.
- ✦ Loss of earnings or support.
- ✦ Loss of wages due to participation in, or attendance at, the investigation, prosecutorial and judicial processes, and travel.
- ✦ Care of a child or a dependent.
- ✦ Funeral and burial expenses.
- ✦ Crime scene clean-up.
- ✦ Replacement costs for clothing, bedding, or property seized as evidence or rendered unusable as a result of the investigation.
- ✦ Reasonable attorney fees for assistance in filing the Crime Victims' Compensation application and in obtaining benefits, if the claim is approved.
- ✦ Loss of wages and travel to seek medical treatment.
- ✦ One time relocation expenses for domestic violence victims and sexual assault victims if the assault occurred in the home.

**Q: Will the victim have to pay the bills first and then apply for Crime Victims Compensation?**

**A:** Yes, Crime Victims Compensation reimburses victims for their expenses. This is an application process and the application must be approved before any funds will be released to the survivor. The only exception to this reimbursement process is the forensic portion of the sexual assault exam. The hospital will be paid directly by law enforcement department handling the case for the forensic portion of the exam. A survivor should never have to pay for the collection of evidence through the forensic exam.

**Q: What happens to children if their parent has been sexually assaulted and there is no one present to care for the children?**

**A:** Law enforcement commonly contacts other family members, neighbors or CPS to care for these children. If CPS is called, it is referred to as a 'case related special request.' Sexual assault advocates, domestic violence shelters and victim liaisons can also be called for assistance.

**Q: What if the victim is an inmate within the Texas Department of Criminal Justice or within a local detention facility?**

**A:** Sexual assaults are reported to and investigated by TDCJ internal affairs. Typically, counseling and medical attention is available through internal counselors and medical professionals. If the case went to court, the D.A. in the county where the assault occurred would take the case. It is recommended that outside medical professionals be utilized.

**Q: What if I think the victim is lying about being sexually assaulted?**

**A:** First and foremost you should remain respectful of the victim, even if you believe their story to be false. The FBI reports that the number of false allegations for sexual assault is no higher than any other crime, approximately 5%. It is also not uncommon for sexual assault victims, especially children, to recant. A case that may be unfounded, does not mean it is false.