September 13, 2012

The Honorable Leon Panetta
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Panetta:

The crime of sexual assault is abhorrent to society. Within the military that abhorrence is magnified because sexual assault undermines the trust and cohesion among service members, inflicts terrible damage on its victims and weakens the good order and discipline that are essential to military readiness. I know that you share our views on this matter.

As a long term member of the House Armed Services Committee, and now its leader, I have supported and initiated numerous bipartisan measures to prevent, address and punish sexual assault. I remain committed to that effort.

For some time, the committee has heard from various sources a consistent concern that the Uniform Code of Military Justice (UCMJ), and especially the systems used for the administration, investigation, prosecution, and adjudication of offenses under the UCMJ, must be completely reformed to be an effective mechanism of justice in cases of sexual assault. Embedded in those concerns is the explicit allegation that military commanders are incapable and even unwilling to fully and completely address the crime of sexual assault.

Recently, the committee staff received the recommendation for the appointment of a commission to review, assess and make recommendations for potential revisions of the Uniform Code of Military Justice. I believe that recommendation has merit. Further, I believe that there may be an opportunity before the end of the year to include the statutory requirement for such a commission in the National Defense Authorization Act for Fiscal Year 2013. To that end, I request your input as to the commission’s focus and composition not later than October 15.

I believe such a commission should focus on the following key questions: Are the current systems used to administer, investigate, prosecute, and adjudicate the crime of sexual assault under the UCMJ effective? If not, why not, and how could they be made more effective? Do the actions and decisions of commanders promote or inhibit the effectiveness of those systems? How should the role of commanders be reformed?
To answer those key questions, I believe the commission’s effort should include:

- Using criteria the commission considers most appropriate, an assessment of the strengths and weaknesses of the systems (administration, investigation, prosecution, and adjudication) of the UCMJ employed in connection with sexual assaults, as defined in the UCMJ, during the period 2007 through 2011.
- An assessment of the roles and effectiveness of commanders at all levels and specifically, an examination of the allegations that commanders are insensitive and unresponsive to complaints they receive of sexual assault; that measures other than courts-martial are used inappropriately and too often to deal with sexual assault allegations, or to shield alleged perpetrators who are considered superior performers; that military courts-martial conviction rates are well below those in the civilian justice system, and punishments imposed are inconsistent with the seriousness of the offenses, thus reflecting the lack of importance that military judges and juries place on sexual assault; and that commanders are not held accountable by their superiors for failures or lapses in enforcing policies and laws related to sexual assault.
- An examination and assessment of the strengths and weakness of proposed legislative initiatives that would modify the current role of commanders in the administration, investigation, prosecution, and adjudication of sexual assault.
- A comparison of the military and civilian systems for the investigation, prosecution, and adjudication of sexual assaults; and the identification of civilian best practices that might be considered for inclusion in the military UCMJ systems.

Regarding the commission’s composition, I believe its members should include both military and non-military experts, persons familiar with both the UCMJ systems and civilian justice systems, and proponents of reform.

I would be glad to discuss this matter further, if you wish. The committee staff points of contact are John Chapla and Jeanette James.

I look forward to your response.

Sincerely,

[Signature]

Howard P “Buck” McKeon
Chairman

HPM:jbw
The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515-6035

Dear Mr. Chairman:

Thank you for your letter of September 13, 2012, requesting the Department's input on your proposal for legislation that would mandate the appointment of a commission to review, assess, and make recommendations for potential revisions of the Uniform Code of Military Justice in the area of sexual assault.

As you know, I share your profound concern about sexual assault in the military. General Dempsey and I have taken a personal interest in deepening our understanding of this terrible crime and developing a Department-wide approach to combat it. The Department is resolute in our goal of eliminating sexual assault from the armed forces.

The Department has instituted several significant initiatives intended to address many of the concerns identified in your letter. Considerable efforts are now underway within each Military Department focused on combating sexual assault, including the development of prevention strategies, new training approaches, compassionate and responsive support for sexual assault victims, and ensuring appropriate accountability. For example, last month I directed the Military Departments to conduct comprehensive assessments of initial military training of enlisted personnel and commissioned officers. Further, this past spring I announced that, working with Congress, the Services would be creating "special victim" capabilities to ensure that specially trained investigators, prosecutors and victim-witness assistance personnel are available to assist with sexual assault cases. In addition, I have withheld initial disposition authority for the most serious sexual assault offenses from commanders who do not possess special court-martial convening authority and were not of the grade of O-6 or higher.

Ultimately, prevention of sexual assault and ensuring accountability is a command and leadership responsibility. These initiatives must be supported and allowed to work.

In response to concerns that have been raised and whether or not legislation of the nature you suggest follows, I am directing that the Joint Service Committee on Military Justice immediately embark upon a comprehensive fact-gathering process, to be completed within four months, that involves identifying comparable data and best practices from both military and civilian jurisdictions, which will inform a comprehensive assessment of the concerns you describe. We would appreciate your input into this fact-gathering process,
including any suggestions you have about particular civilian jurisdictions that should be the focus of the Joint Service Committee’s effort and appropriate topics for its fact-gathering inquiry.

After the conclusion of the Joint Service Committee’s review, I intend to provide the factual information to an independent panel, which will include individuals with expertise in legal issues relating to sexual assault and which can analyze the factual data and provide views and recommendations on the administration, investigation, prosecution, and adjudication of sexual assault cases within the military justice system. This independent panel can also look at the initiatives we have taken and those that are planned to be taken in the near future to assess their impact and promise for improvement.

I look forward to working with you on this important matter.

Sincerely,

[Signature]

cc:
The Honorable Adam Smith
Ranking Member
## JSC-SAS Prosecution Office/Police Interview Questions

### I. Organization, Training, & Experience

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<tr>
<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tbody>
<tr>
<td>1. Does your office have a separate unit or division that prosecutes sex offenses?</td>
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<td>2. If so, what is the typical (or average) amount of experience a prosecutor will have prior to being assigned to that unit?</td>
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<td>3. What is the average caseload for an attorney assigned to this sexual assault unit (charged/uncharged)?</td>
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<td>4. If there is a separate sex offense division, how long do prosecutors typically work in that division?</td>
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<td>5. If there is not a specific unit or division handling sex offenses, what is the typical caseload of a prosecutor assigned to handle sex offenses and other cases?</td>
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<td>6. Is there a minimum experience level for prosecutors assigned to handle sex offense cases?</td>
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<td>7. Is there a training protocol for prosecutors assigned to handle sex offenses?</td>
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<td>8. Describe the oversight or supervision of attorneys assigned to prosecute sex offense cases.</td>
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<td>9. What is the general level of experience among defense counsel / Public defenders?</td>
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<td>10. What is the general level of experience among victim advocates?</td>
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<td>11. What is the general level of experience among investigators?</td>
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### II. Investigation

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<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tbody>
<tr>
<td>12. How are sexual offenses reported to your agency?</td>
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<td>13. Is there a separate unit or special investigators who only investigate sexual assault cases?</td>
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<td>14. When do investigators first make contact with</td>
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# JSC-SAS Prosecution Office/Police Interview Questions

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<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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<tr>
<td>15. What kind of follow-up is typically done by a prosecutor?</td>
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<td>16. How often do investigators consult with prosecutors before making arrests in sexual assault cases?</td>
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<td>17. Are victim interviews taped? How often are victims usually interviewed?</td>
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<td>18. Are suspect interviews taped?</td>
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<td>19. Who interviews the victim?</td>
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<td>20. Does the prosecutor have a role in the initial contact and interview? If so, what is that role?</td>
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<td>21. How are criminal actions by complaining witnesses handled?</td>
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## Investigation Statistics

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<th>Questions</th>
<th>Answers</th>
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<tbody>
<tr>
<td>22. How many sexual assault complaints are made to your jurisdiction’s law enforcement agency(ies) each year?</td>
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<td>23. How many of those complaints resulted in the initiation of a criminal or law enforcement investigation?</td>
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<td>24. How many of those complaints were closed by law enforcement without further action?</td>
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<tr>
<td>25. How many were referred to a prosecuting attorney’s office for review/charging?</td>
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<tr>
<td>26. How many sexual assault apprehensions/arrests are made each year?</td>
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### III. Victim Advocates, Victims’ Counsel, & Victim services

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<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tr>
<td>27. Are your victim advocates employed by (or volunteer with) your prosecutor’s office, or are they associated with another entity?</td>
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<td>28. How often are they used?</td>
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<tr>
<td>29. How are they typically used, and what duties do they perform?</td>
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<tr>
<td>30. Do you find them helpful?</td>
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<tr>
<td>31. What other services are available to support victims?</td>
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<td>32. Are these services helpful? Successful?</td>
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<tr>
<td>33. What are the best practices to support victims?</td>
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<tr>
<td>34. Are victims ever represented by legal counsel during sex offense prosecutions in your jurisdiction?</td>
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<tr>
<td>35. If so, approximately how often does this occur?</td>
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<td>36. Are attorneys appointed for these victims, or are they retained privately by or on behalf of the victim?</td>
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<td>37. What role, if any do victims’ counsel play in the motion practice or trial process? Are they granted standing?</td>
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<td>38. If there is evidence that the victim/complaining witness may have acted in a way that violated certain crimes (i.e. underage drinking, prostitution, etc., how is that addressed by prosecutors)</td>
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### IV. Pre-charging contact by prosecutor

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<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tr>
<td>39. Before making a charging decision, what kind of</td>
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contact does the prosecutor have with the investigators?

40. Before making a charging decision, what kind of contact does the prosecutor have with the victim?

41. If a suspect is represented by an attorney, what contact will the prosecutor have with the defense attorney before making a charging decision?

42. What kind of contact does the prosecutor typically have with a victim advocate prior to making a charging decision?

V. Charging Decisions

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<tr>
<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tbody>
<tr>
<td>43. Does your agency have a protocol (written or unwritten) for reviewing and charging sexual assault cases?</td>
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<td>44. Who decides what to charge?</td>
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<td>45. How is the charging decision made?</td>
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<td>46. Is there a set standard? (e.g. probable cause)</td>
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<td>47. Does that standard have to be certified in any way?</td>
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<td>48. Is the decision reviewed by anyone?</td>
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<tr>
<td>49. Do you have a grand jury system or any other similar vetting process?</td>
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<tr>
<td>50. Are there certain criteria that are taken into account in a sexual assault case? Formal/informal</td>
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<tr>
<td>51. Do the victim’s wishes affect the charging decision? If so, how?</td>
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<tr>
<td>52. What are the roles of the victim and victim advocate in the charging decision?</td>
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<td>53. How much does likelihood of success at trial factor into the charging decision?</td>
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<tr>
<td>54. Do certain types of evidence help or hurt the chances that a case will be charged? Which types of evidence and how?</td>
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<tr>
<td>55. If a decision is made not to charge a case, is there a</td>
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</table>
JSC-SAS Prosecution Office/Police Interview Questions

written declination form or letter?

57. What are the most common reasons for declining to charge sex offense cases?

58. How does your agency handle victim recantations and victims who decline to participate in the prosecution process?

Charging Decision Statistics

<table>
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<tr>
<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tbody>
<tr>
<td>59. How many cases are forwarded to your agency each year for a prosecutor’s disposition decision?</td>
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<tr>
<td>60. How many cases were closed without charging an offense during the last year [or period of the study]?</td>
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<tr>
<td>61. Does your office keep statistics on the reasons for not charging cases?</td>
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<tr>
<td>62. If you agency has a grand jury or similar system, how many cases go to the grand jury/vetting process in sexual assault cases each year?</td>
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<tr>
<td>63. How many cases are terminated by the grand jury/vetting process each year?</td>
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<tr>
<td>64. How many were disposed of in another manner other than declining to charge or charging a felony sex case?</td>
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VI. Post-Charging

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<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tbody>
<tr>
<td>65. What is the nature of pre-trial hearings (if any) in your system?</td>
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<tr>
<td>66. What is the nature of motions practice in your system? Is the victim involved?</td>
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<tr>
<td>67. Do investigations typically continue post-charging?</td>
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### JSC-SAS Prosecution Office/Police Interview Questions

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<thead>
<tr>
<th>Question</th>
<th>Answers</th>
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<tbody>
<tr>
<td>68. How do you conduct victim interviews?</td>
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<tr>
<td>- How many would be there?</td>
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<tr>
<td>- When would they be?</td>
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<tr>
<td>- Who would be in the room?</td>
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<tr>
<td>69. How is information relayed to the victim during the pretrial process?</td>
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<tr>
<td>70. How do defense counsel conduct victim interviews?</td>
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<tr>
<td>- Who is present?</td>
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<tr>
<td>- Can the victim refuse?</td>
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<tr>
<td>- Where are they conducted?</td>
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### Plea Negotiations and Alternative Dispositions

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<th>Questions</th>
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<tbody>
<tr>
<td>71. How are plea negotiations conducted?</td>
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<tr>
<td>72. How are offers made?</td>
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<tr>
<td>73. Who makes the offer?</td>
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<td>74. How long does the other party have for acceptance?</td>
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<tr>
<td>75. What are the various types of offers or conditions?</td>
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<tr>
<td>76. Do victims have an opportunity to provide input to plea negotiations?</td>
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<tr>
<td>77. Do you have alternative treatment options in your system? If so, please describe.</td>
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<tr>
<td>78. Are there certain types of offenses that qualify for the alternative disposition?</td>
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<tr>
<td>79. Does the offender have to admit guilt or plead guilty in some fashion to be eligible for alternative disposition?</td>
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<tr>
<td>80. How many / what percentage of cases were resolved by an alternative disposition?</td>
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<tr>
<td>81. How many/what percentage of cases were resolved by an alternate treatment option?</td>
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Plea Negotiations and Alternative Dispositions Statistics

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<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tr>
<td>82. How many of the cases charged were resolved by guilty plea [for the time period specified]?</td>
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<tr>
<td>83. How many of those cases were resolved by a plea as charged?</td>
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<td>84. How many were resolved by plea to a less serious offense or less counts / offenses?</td>
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<td>85. If you have alternative treatment options in your system, how many of the cases charged were resolved by an alternate treatment option (if this is kept separately from other categories)?</td>
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VIII. Trial

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<th>Questions</th>
<th>Answers</th>
<th>Follow-up</th>
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<tr>
<td>86. What is your jury composition?</td>
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<tr>
<td>87. How is the victim prepared for trial?</td>
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<td>88. How is witness preparation accomplished for non-victims?</td>
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<td>89. How are motions litigated closer in time to trial or during trial (e.g. motions in limine)</td>
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<td>90. During trial prep, how much contact is there with the victim?</td>
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<tr>
<td>91. Is there an investigator or police officer at the counsel table during trial?</td>
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<tr>
<td>92. If a victim advocate is involved in the case at this stage, what role(s) or duties are undertaken by the advocate?</td>
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93. Are government experts readily available?

Trial Statistics

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<th>Questions</th>
<th>Answers</th>
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<tr>
<td>94. How many cases were contested at trial [during the specified time period]?</td>
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<td>95. What percentage/how many of the contested trials [in the specified time period] resulted in:</td>
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<tr>
<td>- Conviction to a charged offense?</td>
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<td>- Conviction of an LIO/lesser offense?</td>
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<td>- Hung jury / mistrial?</td>
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<td>- Acquittal?</td>
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IX. Sentencing

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<th>Questions</th>
<th>Answers</th>
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<tr>
<td>96. When there is a conviction, who selects the sentence – judge or jury?</td>
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<td>97. Are the sentencing guidelines or ranges that influence the sentence that can or must be imposed?</td>
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<td>98. What information does the sentencing Judge (or jury) have regarding the offender, and what is the source of that information?</td>
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<td>99. Does your jurisdiction have sentencing options in addition to / instead of confinement?</td>
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<td>- Treatment?</td>
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<td>- Probation or parole?</td>
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<td>- Restitution?</td>
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<tr>
<td>- Anything else?</td>
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<tr>
<td>100. What are your clemency procedures?</td>
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<td>101. Who can grant pardons?</td>
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## JSC-SAS Prosecution Office/Police Interview Questions

### Overall

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<th>Questions</th>
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<tr>
<td>102. What are your biggest challenges that you face in sexual assault prosecutions?</td>
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<td>103. Do you face pressure from media/public? If so, how do you respond?</td>
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<tr>
<td>104. What do you think your office could do better?</td>
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<td>105. What do you think your office does particularly well?</td>
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<td>106. How do you measure success in combating sexual assault? (prosecution rates, # of reports, etc?)</td>
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JSC-SAS Defense Attorney Questions

I. Organization, Training, & Experience

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<th>Follow-up</th>
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<tr>
<td>A1. How many Public Defenders at your office?</td>
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<tr>
<td>a2. Describe organization and administration.</td>
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<tr>
<td>b. What is the average caseload for an attorney assigned to handle felony cases?</td>
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<td>c. If so, what is the typical (or average) amount of experience a public defender will have when hired?</td>
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<tr>
<td>D1. Is there a minimum experience level for Public Defenders assigned to handle sex offense cases?</td>
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<tr>
<td>D2. Is there a training protocol for public defenders assigned to handle sex offenses?</td>
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<tr>
<td>D3. Describe the oversight or supervision of attorneys assigned to prosecute sex offense cases.</td>
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<tr>
<td>e. Are there rotations between specialities?</td>
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<tr>
<td>f. Do you have your own investigators? What is the general level of experience and duties among investigators?</td>
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<tr>
<td>g. Do your PD’s have access to experts.</td>
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<td>h. Does your office keep statistics?</td>
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II. Prosecution Office

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<td>b. Do new DPAs at the prosecutor’s office have enough experience before prosecuting sexual assault cases?</td>
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<td>c. How is the relationship?</td>
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<tr>
<td>d. Have training or experience ever caused issues?</td>
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<tr>
<td>e. Has access to discovery been an issue? Brady?</td>
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JSC-SAS Defense Attorney Questions

3. Victims

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<td>a. What familiarity is there about victim resources?</td>
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<tr>
<td>b. Have victim advocates or other victim services ever affected prosecution?</td>
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<tr>
<td>c. Has the Public Defender’s office ever also represented a victim in a collateral or other criminal case?</td>
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<tr>
<td>d. Have outside/other attorneys representing the victim ever affected the prosecution?</td>
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<tr>
<td>E1. Do you get to interview the victim?</td>
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<td>E2. How are those handled?</td>
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<td>f. What access or availability do you have to medical records, mental health records, etc.</td>
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4. Accused Resources

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<td>b. Does the Public Defender’s Office have any social work resources</td>
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<td>b. How are guilty pleas handled?</td>
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<td>c. What feedback from juries has there been about prosecution of the case?</td>
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<td>d. How does having sentencing guidelines affect pleas and negotiations?</td>
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<td>b.  What additional resources, if anything, would you want?</td>
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<tr>
<td>c.  What cases or issues are best for the defense?</td>
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</table>
Questions for Victims’ Attorneys/Victim rights organizations

I. Organization & Personnel

Q: What type of organization is _____?

Q: Organizational structure - What type (attorneys, social workers, volunteers, etc) and how many personnel work at your organization?

Q: What is the experience level of the victim attorneys in your office? Do you have any particular training?

Q: What are the educational background requirements for Social workers and victim advocates?

Q: What is the experience level of the victim attorneys in your office? Do you have any particular training?

Q: What type of training do they receive in order to counsel victims of sexual assault, or on-going training do they receive?

Q: What type of privilege do you and the people in this organization have to protect your communication with the victim?

Q: How are you funded?

II. Legal Services

Q: What is your organization’s mission & vision?

Q: What type of assistance does your organization provide victims?

Q: How would you describe your role? Limited capacity?

Q: Do you also assist with victim’s civil cases?

Q: Where do your clients come from or how do they hear about your organization?

Q: What type of help do victims request from you?

Q: When do you get involved?
Q: What is your general approach?

Q: Do you encourage victims report?

Q: How do you help people throughout the State/area (phone, in person)?

Q: How do you tailor services around client’s needs?

Q: Do you see many cases that involve alcohol? If so, what do you advise your client?

Q: Do you see cases where the victim or perpetrator are removed from the situation, similar to our Expedited Transfer policy?

Q: What are the separate rules of the social worker/victim advocate (SW/VA) and the interaction with the victim attorneys?

Q: How do the SW/VA at MCVRC differ from those in the PD or at the State Attorney’s office?

Q: What types of restitution do you see in sexual assault cases?

Q: What types of restitution do you see in sexual assault cases?

Q: What need is there for victim attorneys in sexual assault cases?

Q: What outreach activities do you do?

Q: What recommendations do you have for establishing victim attorneys programs?

III. State & Federal Victim’s Rights Laws

Q: Can you briefly tell us about the State’s victim right laws?

Q: What role do victim attorneys have in state criminal cases?

Q: Does this State have an enforcement mechanism for Victim Rights? If so, what is it?

Q: Do you see a lot of the enforcement provisions of victims’ rights being used?

Q: What type of enforcement mechanism would be more effective for the State court?

Q: Can you give an example of a case where victim attorney used in state (sexual assault) case?

Q: What are the State’s rules regarding sequestration of victim witnesses?

Q: What differences do you between Federal vs. State cases.

Q: Have you seen enforcement mechanisms used in Federal courts?
Q: Can you give examples of those Federal cases?

Q: If you could change your state’s victim laws or follow another state’s model – what would you recommend?

**IV. Other Parties’ & Judges’ Perception of Victims’ Legal Representation**

Q: How is your legal representation received by prosecutors?

Q: Are you present with your client at interviews with investigators, prosecutors, defense attorneys and/or any other meetings?

Q: What’s your involvement with prosecution?

Q: Where do you sit during a criminal trial if you have entered an appearance?

Q: Do you actually participate when the trial is on-going?

Q: What do you do when there’s a plea agreement?

Q: Have you seen any resistance by defense attorneys?

Q: Have you seen any appellate issues raised because of victim attorneys’ participation?

**V. Recommendations for Military**

Q: What is your impression of the Air Force’s victim’s counsel program?

Q: What type of enforcement mechanism have you seen used that works or could work for the military?

Q: Do you know of any case examples?

Q: In the military, the victim is subject to cross-examination. Do you have any suggestions?

Q: What do you hear most from victims?

Q: What would you like improved in your state?

Q: What recommendations do you have regarding policy for victim rights?
Jurisdiction: Anchorage, Alaska

A. Introduction

With a population of almost 300,000, Anchorage is Alaska’s most populous city, consisting of more than 40% of the state’s total population. Alaska covers diverse jurisdictions to include metropolitan areas, rural communities and even regions of the State not connected to the road network (referred to as “the bush”). Joint Base Elmendorf-Richardson is located nearby. According to Alaska’s Office of Victims’ Rights (OVR), “Alaska, generally, and Anchorage specifically, have been plagued by a high incidence of forcible rapes and sexual assaults.” And, while it was written in 2004, the Alaska Justice Forum, a publication of the Justice Center for the University of Alaska at Anchorage reported, “[o]ver the past twenty years, Anchorage has been consistently at or near the top of U.S. metropolitan statistical areas for rates of reported forcible rape.” According to FBI crime statistics, Anchorage has a rate of 92.9 forcible rapes per 100,000 inhabitants.

B. Law Enforcement

The Anchorage Police Department has not created a specialized unit to investigate sex crimes. Police detectives are encouraged to act as screening authorities of allegations. Police detectives will not forward a case without sufficient evidence to prosecute, and prosecutors do not see the files on these cases.

Despite strong witness sequestration rules, police detectives sit at counsel table with the prosecutor throughout the trial. This has the collateral benefit of educating the investigator on how cases unfold at trial, improving evidence-gathering techniques and aiding them in conducting a more thorough investigation. Defense counsel stated the practice sometimes gives them cross examination material because it appears the detective is an arm of the prosecution and not a neutral fact finder.

Investigation standards vary from the more populated areas as Anchorage to the more rural areas, including the bush. Public defenders believe the high level of acquittals is related to the problems in investigation, especially in the less populated areas where investigators tend to get less training and have fewer resources. Better investigations typically lead to higher conviction rates.

Typically, a report of sexual assault is made through 911. The responding officer is to get the bare minimum facts, transfer the case to the multidisciplinary center and notify advocates and detectives.

All interviews with victims and suspects are videotaped. If the victim interview is not taped, or not available, the court will give a “Thorn” instruction telling the jury to “presume that the recording would have been favorable to the defense.”
C. Prosecution

1. **Organization**

The Alaska Attorney General’s Office is divided into several different districts. Anchorage is located in the 3rd Judicial District. The Anchorage office is divided into a misdemeanor unit and several different felony units, including a Special Assault Unit (SAU). It is however, the only office within the state that is divided into units. The SAU consists of 5 prosecutors and a paralegal who serves as the Victim/Witness coordinator for the unit. The current Victim/Witness coordinator has prior experience as a victim advocate. The SAU does not provide victim advocate services; these are provided through a partnership with Standing Together Against Rape (STAR). STAR’s involvement in a case begins as soon as a sex offense is reported. The office does not have its own investigators; it relies on the Anchorage Police Department.

2. **Experience and Training**

Deputy District Attorneys typically progress from the misdemeanor unit to drug and property-related felonies and then to the Violent Crimes unit or the SAU. There is no set criteria for who will be assigned to the SAU.

D. **Victim Services**

1. **District Attorney’s Office**

The Victim/Witness coordinator is responsible for notifying the victim of upcoming hearings and keeping the victim informed about the status of the case. The Victim/Witness coordinator in the office is a paralegal. While the current Victim/Witness Coordinator does have a background in victim services, it is not necessarily a pre-requisite for the job.

Although the Victim/Witness coordinator is responsible for notifications to the victim, the office stresses communication with the victim by everyone involved, including the prosecutor handling the case. Leaving communication with the paralegal alone is dangerous for the relationship with the victim; the prosecutors feel that honesty and discussing issues involving the case, even if the news is bad, is the best way to support a victim. Platitudes, such as “I know how you feel,” are not helpful to the victim or the relationship of trust needed to complete a prosecution.

2. **Standing Together Against Rape (STAR)**

Formed 30 years ago, STAR today is a 24-hour crisis intervention center providing crisis intervention services, legal advocacy services and on-going support services to victims. STAR advocates will accompany a victim through the investigation process and assist the victim throughout the court process, including accompanying the victim to meetings with the prosecutor and court appearances if the case is charged. STAR does not include attorneys and does not
offer legal advice to victims. STAR’s community partners include the Alaska State Police, the Anchorage Police Department, District Attorney’s Office, and Joint Base Elmendorf-Richardson.

Under Alaska law, confidential communications between a sexual assault or domestic violence victim and the victim’s counselor are privileged.

STAR advocates are a part of the SART team, which includes the SART nurse, who conducts the forensic exam the detective, and an advocate from STAR.

3. Alaska Office of Victim’s Rights (OVR)

OVR is an agency of the Alaska Legislature, rather than the executive branch, to avoid conflicts within state government. Its purpose is to help victims of crime obtain the rights they have under the Alaska constitution and statutes with regard to their contacts with criminal justice agencies in the state.

OVR is authorized to protect victim’s rights and advocate on victim’s behalf in state court in all felony offenses, all Class A misdemeanors involving domestic violence, and all misdemeanors involving crimes against the person.

Victims who feel their rights were violated in a criminal case may file a complaint with the OVR. OVR’s director is authorized by law to issue subpoenas to any person for any records or any object if they reasonably believes such items may provide information relating to a matter under investigation. (The law excludes justices, judges and magistrates, a member of a grand or trial jury, the person accused or convicted of the crime that is the basis for the investigation, a victim counselor concerning a matter made confidential by statute.) The director may also require the appearance of any person to give sworn testimony if he reasonably believes that person may have such information. If a subpoena is ignored, the director may file a motion with the state’s superior court requesting a judge issue a court order directing obedience to the subpoena.

The OVR is required by law to ensure that their exercise of discretion does not interfere with any ongoing criminal investigation by a policy agency or any criminal proceeding by the prosecutor’s office.

There is an enforcement mechanism to ensure cooperation with the OVR; Alaska law has made it a misdemeanor to hinder the lawful actions of an OVR advocate or knowingly fail to comply with their lawful demands.

The OVR is funded through the state’s Permanent Fund Dividend Program, from funds forfeited by defendants who are in custody on a felony level crime. In addition to its investigative function, the OVR provides legal counsel to represent victims of crime during the criminal charging process and trial.
E. **Victim Legal Counsel**

In addition to support from STAR, prosecutors sometimes suggest that victims contact OVR in certain situations where they believe victim legal counsel could assist victims. Police also hand out a pamphlet to victims that have information regarding OVR services. This may occur when a defense counsel makes a request for the victim’s medical or psychiatric records, as prosecutors in Alaska do not have the ability to assert the right of privacy or privilege on behalf of the victim. Counsel from OVR have represented victims in cases where the victim opposed the release of those types of records and have been successful in protecting those records from review, even *in-camera* review by the court.

OVR has a staff of three full-time and one part-time attorney. Each attorney carries about 50 cases at any given time. There are also two paralegals and one investigator employed by OVR. Most OVR counsels were former prosecutors.

Most of OVR’s representation centers on litigation over access to victims’ records (e.g., mental health or medical records). While a prosecutor has no standing to assert a privilege on behalf of a victim, an OVR attorney may do so. Prosecutors will suggest that victims call OVR in those types of situations.

OVR attorneys will represent victims during sentencing hearings, explain the investigative and charging process to the victim, appear at bail/release hearings and attend trials where the victim testifies. OVR lawyers are permitted to address the sentencing judge on the victim’s behalf if requested to do so and when the victim chooses not to personally make their victim impact statement to the judge. OVR attorneys work with prosecutors in most cases to help the victim get through the system. It is somewhat of a balancing act, as they don’t want to “step on the toes” of prosecutors, but can help the victim understand the process better and to prepare for trial.

OVR attorneys do not do the “hand holding” part of victim advocacy. During meetings at the prosecutor’s office, it is common to have the prosecutor, Victim/Witness liaison from the prosecutor’s office, a STAR victim advocate, and the victim legal counsel present. The victim legal counsel sticks to explaining legal issues such as delays, and gives the victim an explanation of the system to enable the victim to participate in the process. Prosecutors also seem to feel comfortable explaining the issues or difficulties of a case to another attorney. OVR attorneys representing victims and prosecutors agree on cases about 90% of the time.

OVR does not represent each and every victim of sexual assault in Alaska. Even when requested, OVR has the right to refuse representation. These refusals typically come in cases where the victim also has criminal cases opened against them as well. They will either not agree to represent a victim, or will create a “wall” around the victim’s own misconduct so the OVR attorney does not become a defense attorney. Alaskan defense counsel stated this seemed to be a
weakness in the program, where-in those who may be facing other ramifications could use an attorney’s advice.

There are some occasions where a victim will provide more information to a victim legal counsel than has been revealed to prosecutors or police. However, the OVR attorneys indicated that the information hasn’t been something exculpatory (which is the fear), but that the attorney will typically set up a meeting so the victim can relay the information to the police or prosecutors.

Since 2007, judges have been getting more comfortable with having victim legal counsel in the courtroom making argument or speaking on behalf of the victim.

OVR victim legal counsels do not represent victims in civil matters, including protection order hearings. They typically do not sit in on police interviews with the victim, because they do not want to become a witness.

F. Public Defender

1. Organization

Alaska’s Public Defender Agency is a quasi-independent agency within the Department of Administration. The Public Defender’s Office in Anchorage has a total of 23 attorneys; 5 handling misdemeanors and 18 handling felonies. Only six of the 18 felony attorneys are qualified and trained to handle sex cases. There are 13 Public Defender offices in the state. Due to the large and dispersed area in Alaska, public defenders have developed procedures for getting less experienced public defenders the ability to travel and try cases with more experienced public defenders as they learn how to try cases such as adult sex assault cases.

Only senior attorneys handle the most serious sex offense cases (forcible rape, intercourse with a child under 13). Promotion is not based solely on longevity in the office; the public defenders try to tie promotion to skill acquisition. Skills include both trial skills and negotiation ability. New lawyers are given the opportunity to second-chair felony cases to get experience. Supervisors evaluate the skill of their attorneys by sitting second-chair on the attorney’s case.

2. Background and Training

There is a “new lawyer” two-week intensive training on trial practice that all new attorneys hired by the office attend. There is also a defense conference that provides on-going training. Due to budget issues, both events were cancelled for this year.

3. Investigators

The Agency has its own investigators; their duties include interviewing witnesses, locating expert witnesses, preparing and serving subpoenas, and paralegal functions. Investigators allow attorneys to continue with trial work and litigation without causing unwarranted delays.
Investigators currently come from other state or local governments, may work for other departments such as Medicare fraud units, or as paralegals.

Crime victims, including victims of sex offenses, have the right to choose whether or not to have contact with a defense investigator and defense counsel. If the victim decides to meet with a defense investigator, the victim has the right to have a prosecutor or other person present. The public defender stated that if the victim does request a prosecutor or other person’s presence, the investigator will generally not have a meeting.

4. **Contact with police and prosecutors**

Unlike most jurisdictions, there is no right to reciprocal discovery in Alaska, meaning the prosecution may not receive any information from the defense pertaining to evidence or witnesses it intends to present at trial. Typically, there is a turnover of substantial discovery at the start of trial.

Junior prosecutors need approval during plea negotiation to reduce a sex offense charge to a non-sex charge. However, a new case just came out that limits the ability of prosecutors to make plea offers to reduce charges. This will likely affect plea negotiations.

Public Defenders feel there is a huge variation in the competence of police agencies around the state. In some of the smaller villages, community protection officers have very little training, do not carry guns, and are units staffed by volunteer officers. This may be why there is a high defense acquittal rate in Alaska.

5. **Office of Victim Rights**

The public defender interviewed stated his office is seeing more aggressive litigation from OVR, especially on the issue of keeping out information prejudicial to the victim. He believes victim’s rights statutes could become a problem if they impinge on defendants’ rights.

OVR victim legal counsel participates in bail and release hearings to represent victim rights. Judges have begun asking prosecutors if the victim has been notified and will refuse to proceed if there has not been notification. Defense counsels are beginning to notice more aggressive litigation from the state and Office of Victim Rights to keep out information from the case, such as victim blackouts.

The defense feels that once victim legal counsel is involved, there is much less chance of the victim being influenced by the prosecutor.
G. **Criminal Procedure**

1. **Charging**

The charging policy for offenses is for the prosecutor to charge what they believe can be reasonably proved and not charge for offenses for which there is only probable cause. Experienced prosecutors stated that cases in which the prosecutor believes the victim but have no evidence need to be given a harder look and that a prosecutor is doing a disservice to the victim and the justice system if they go forward only on that. Further, they do not over charge in hopes of getting a plea to something lower.

Alaska uses a grand jury proceeding modeled after the federal system.

2. **Pleas**

There are several sex felony charges that have high mandatory minimum sentences, which make plea negotiations more difficult. As an example, a forcible rape has a mandatory range of 20 to 30 years in prison, with 20 years being the minimum sentence. Further, several plea agreements require specific approval from high level individuals to be enacted.

The Deputy Attorney General in a District is required to sign off on all plea agreements negotiated by Deputy District Attorneys when the plea is from a sex offense to a non-sex offense.

3. **Alternative Disposition Options**

There are no alternative disposition options available for sex offenses.

4. **Trial**

A high proportion of sexual assault cases go to trial. Both public defender’s and prosecutors believe the high portion of trials and acquittals are a result of the limited flexibility in the plea negotiations for these types of cases.

5. **Victim Rights and Enforcement**

Per the Alaska constitution and statutes, Alaska victims have fairly robust rights, including: 1) notification before proceedings (e.g., notice of hearings where the accused’s release is considered, and right to be present and heard; court must consider victim’s comments in making a decision to release in domestic violence and sexual assault cases), 2) prosecuting attorney may introduce the victim to the jury during jury selection or as part of an opening statement, 3) victims may make a written or oral statement for use in preparation of the pre-sentence report, and 4) a victim may appear personally at the defendant’s sentencing hearing to present a written statement and give sworn testimony or an unsworn oral presentation.
There are enforcement mechanisms included in the law. These include a sentence rehearing and delays in the proceedings to ensure proper notification of victims. However, due to the engrained culture of these rules, problems as a result of the rights are rare. Typically a judge is able to ensure rights have been complied with prior to the process moving forward. Defense counsel stated that sometimes it appears the prosecutors use these rights to enable a delay where they would typically not be afforded one.

H. Best Practices

1. Alaska’s OVR is an excellent resource for victims especially if they believe their rights have not been complied with.

2. Victim’s rights are detailed and there are enforcement mechanisms for them. Enforcement mechanisms rarely have to be used, as the judiciary and other actors are diligent with respect to following those rights.

I. Other Considerations

Alaska is indicative of unintended consequences of inflexibility statutory construction (e.g., mandatory sentences complicate plea negotiations/deals and increase risk of acquittals at trial, as well as straining resources).
Victims’ Rights Handbook

Alaska Office of the Attorney General, Criminal Division
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Overview

This document is intended to provide a brief overview of the rights of crime victims under Alaska’s constitution and state statutes. The following discussion addresses the rights of crime victims and their families from the time charges are filed, through the trial, sentencing and post-conviction phases of the criminal justice process.

Victims’ Rights under the Alaska Constitution

Article I, section 24 of the Alaska Constitution sets forth a framework for how the victims of crime should be engaged in the criminal justice process. Crime victims must be:

• Treated with dignity, respect and fairness;
• Protected from the defendant through the court setting appropriate bail or conditions of release after arrest or summons until the end of trial or final disposition of the case, and in situations where the defendant, although convicted of the crime, is released pending appeal;
• Allowed to speak with the prosecution;
• Provided a timely disposition of the case after an arrest;
• Provided information about and be allowed to attend all criminal or juvenile proceedings where the defendant has a right to be present;
• Provided restitution from the defendant who is found guilty.

Alaska Office of Victims’ Rights

The State of Alaska has established a special office to assist crime victims: Alaska Office of Victims’ Rights. The purpose of the office is to help victims of crime obtain the legal rights they have under Article I, Section 24 of Alaska’s Constitution and various Alaska state statutes with regard to their contacts with criminal justice agencies in this state. A victim of crime has the right to be informed about the Alaska Office of Victims’ Rights during their first contact with law enforcement and the prosecution [AS 12.61.010(a)(15)]. The Alaska Office of Victims’ Rights is staffed by attorneys and available at no cost to victims.

For more information please contact:

The Alaska Office of Victims’ Rights
1007 West 3rd Avenue, Suite 205
Anchorage, Alaska 99501-1936
(907) 272-2620 Main Telephone
1-866-274-2620 Toll Free in Alaska
(907)272-2640 Fax
www.ovr.legis.state.ak.us
email: officeofvictimsrights@legis.state.ak.us

Alaska Violent Crimes Compensation Board

The Violent Crimes Compensation Board (VCCB) can help bring financial relief to innocent victims of violent crimes in Alaska.

For more information please contact:

Violent Crimes Compensation Board
P.O. Box 110230
Juneau, Alaska 99811-0230
1-800-764-3040 Toll Free Nationwide
(907) 465-3040 Call Collect Main Telephone
(907)465-2379 Fax
www.doa.alaska.gov/vccb/
email: doa.vccb@alaska.gov
Victims’ Rights After a Crime has been Committed

After a crime is initially committed, the law provides for a number of rights related to basic safety and health needs for victims. These rights include the right to:

• Receive immediate medical assistance [AS 12.61.010(a)(7); AS 18.65.515(a)(3)];

• Transportation to a safe house or shelter [AS 18.65.515(a)(1)];

• Apply for a 72-hour domestic violence protective order [AS 18.66.110; AS 18.66.100(c)(1) – (5), (8) – (12), (16)];

• Be notified and appear at the defendant’s arraignment or initial appearance before a magistrate or judge when bail conditions are set [AS 12.30.010; AS 12.61.010(a)].

Crimes of Sexual Assault and Domestic Violence

Within the Department of Public Safety there has been established a Council of Domestic Violence and Sexual Assault. The council provides planning and coordination of services, crisis intervention and prevention programs to victims of domestic violence or sexual assault and their families [AS 18.66.010].

The confidential communications between the victim of domestic violence or sexual assault and the counselor are privileged, with a few exceptions [AS 18.66.200 - .250; AS 12.45.049].

Crimes of Sexual Assault

Victims of sexual assaults should obtain sexual assault examinations as soon as possible after the crime has occurred. These exams are provided at no cost to victims [AS 18.68.040].

Upon request, in sexual assault cases where penetration was part of the criminal act, victims may ask the court to order the defendant to submit to a blood test to determine if the accused tests positive for HIV or the existence of other sexually transmitted diseases (STDs). This right exists seven days after an individual is arrested and charged with this crime by complaint, indictment, presentment or information filed with a magistrate or with the court [AS 18.15.300(f)(1); AS 18.15.300 - .310]. If the defendant’s blood test indicates exposure or infection by HIV or other STD, the victim is entitled to free counseling, testing and referral to appropriate health care facilities and support services at his or her request [AS 18.15.310(h)].

Crimes of Domestic Violence

In cases of crimes involving domestic violence, a peace officer must protect the victim and the victim’s family. Upon request, to prevent further violence, the peace officer should transport adult victims and family members to a shelter or safe house [AS 18.65.515(a)(1)].

Peace officers can remove essential items such as clothing, medication and legal documents that belong to the victim. Peace officers can assist the victim and any of the victim’s family members in obtaining medical treatment, either by contacting emergency medical services or by transporting the victim to a local medical facility. Peace officers should also notify victims of domestic violence of services available to them.

About Protective Orders

Victims of domestic violence have the right to petition the court for a protective order. Protective orders can include provisions that:

• Prohibit your abuser from threatening to commit or committing further acts of domestic violence;

• Prohibit your abuser from stalking, harassing, or contacting you;

• Remove your abuser from your residence;

• Order your abuser to stay away from your residence, school, place of employment;

• Prohibit your abuser from entering your vehicle or a vehicle you occupy;

• Direct your abuser to surrender any firearm owned or possessed;

• Request a peace officer to accompany you to your residence to ensure your safe possession.
of the residence, vehicle or to remove personal items from your residence;
• Award temporary custody of a minor child to the petitioner;
• Grant you possession and use of a vehicle and other essential personal effects;
• Prohibit your abuser from consuming controlled substances;
• Require your abuser to pay support for you or a minor child in your care if there is an independent legal obligation of your abuser to support you or the child;
• Require your abuser to reimburse you for your expenses caused by domestic violence, including medical bills, and;
• Order your abuser to participate in an intervention program for batterers [AS 18.65.515(a)(1); AS 18.65.520].

A victim of domestic violence may seek a protective order against a household member. A parent, guardian or other representative may seek a protective order on behalf of a minor. A certified copy of an unexpired protective order issued in another jurisdiction and filed with the clerk of court in any judicial district in this state, has the same effect and must be enforced in the same manner as a protective order issued by a court of this state [AS 18.66.100; AS 18.66.140].

Privacy Rights of Crime Victims

Victims of crime, like all Alaska citizens, are legally entitled to have their privacy protected under the Alaska Constitution [Art. I, sec. 22]. If a defendant is charged with kidnapping or a sex crime (which includes: sexual assault, sexual assault of a minor, indecent exposure or kidnapping), the victim’s name is not a public record and may not be used in court documents. Instead, the victim will be identified by his or her initials. The residence and business addresses and telephone numbers of a victim is confidential [AS 12.61.140; AS 12.61.110; AS 12.61.120(a); AS 12.61.130(a)].

Defense attorneys must identify themselves and their association with the defendant when speaking with a victim or witness [AS 12.61.120(c)(1)].

In domestic violence and sexual assault cases victims have the right to decide whether or not to speak to the defense attorney. If the victim permits the defense attorney an interview, the victim may have the prosecuting attorney or another person present.

Victims of sexual offenses also have the right to file written notice that they do not want to be contacted by the defense attorney or other person acting on behalf of the defendant [AS 12.61.125(a)(1)].

If the victim permits the defense attorney an interview, it may be electronically recorded without their knowledge or consent. Victims may ask whether they are recording the conversation and make their own decision about proceeding.

If a victim submits an application to the Violent Crimes Compensation Board, the application is confidential [AS 18.67.030(c)].

Crime Victims and Bail Review

After being arrested and charged with a crime, up to and through trial, the defendant can ask the court to be released on bail. The victim may appear at these bail hearings. The victim is not required to attend unless the victim’s testimony is needed. The victim may wish to participate by telephone due to distance, disability or for safety reasons. If the victim would like to attend by telephone, the victim should contact the District Attorney’s Office in advance of the hearing to make the request.

At the bail hearing, based on the circumstances of the case, a judge has broad discretion to accept or reject a bail release request. If the victim has specific concerns or requests for bail conditions, the victim should contact the District Attorneys’ Office in advance of the bail hearing. For matters involving domestic violence and sexual assault, the court must consider the victim’s safety in deciding whether or not to release the defendant. A victim’s safety should be considered before a defendant is released in stalking and sexual assault cases. If a domestic violence defendant is released from custody, victims are entitled to receive a copy of the conditions of the accused’s release [Alaska Constitution, Article 1, section 24; AS 12.61.010(a) (2); AS 12.30.027; AS 12.30.027(a); AS 12.30.025; AS 12.30.029(a); AS 12.30.027(d) (1) and (2)].

Victims should receive notice of any cancellation of a hearing or court proceeding in which the victim has
been subpoenaed to testify. Victims that cooperate with law enforcement and prosecution efforts should receive information regarding available protection and should receive protection from harm or threats of harm related to that cooperation. Types of protection could include protective orders, assistance in obtaining personal belongings, transportation to a safe home or shelter and medical treatment.

Crime victims may also contact the Alaska Department of Corrections to enroll in VINE (Victim Information and Notification Everyday). VINE is a free, anonymous, computerized notification system maintained by the Alaska Department of Corrections, to notify victims and others if the defendant is being transferred, released or escapes from custody. The contact number for the VINE system is 1-800-247-9763. The web site is www.vinelink.com [AS 12.30.010(a)(3); AS 12.61.010(a)(4); AS 12.61.050].

Victims' Rights at Trial and Other Criminal Proceedings

Victims of crimes have the right to be present during any proceeding in the prosecution and sentencing of a defendant if the defendant has a right to be present; and to be notified if those court dates change or there is a request for continuance that may substantially delay the trial. Upon request, if the crime is a felony or crime involving domestic violence, the prosecuting attorney shall make reasonable effort to confer with victims about their testimony before a defendant’s trial. In addition to receiving notice and the right to attend trial, a victim may be introduced by the prosecuting attorney to the jury as part of the state’s opening statement at trial.

A crime victim may also be called as a witness at trial. Being called as a witness and subject to cross-examination can be difficult, but remain calm and try to answer the questions as honestly and simply as possible. Victims’ support groups or advocates are available and helpful. Victims should be aware that they cannot be required to submit to a psychiatric examination unless their psychiatric or psychological condition is an element of the crime charged, or they suffer from a continuing psychological or psychiatric condition that resulted from the crime charged. Absent a specific finding by the court of relevance, evidence of the past sexual conduct of a victim is not admissible.

Remember, with a few exceptions, the confidential communications between the victim of domestic violence or sexual assault and the counselor are privileged [AS 18.66.200 - .250; AS 12.45.049].

Employers may not punish or threaten to punish a victim because a victim is subpoenaed or requested by a prosecuting attorney to attend a court proceeding for the purpose of giving testimony [AS 12.61.010; AS 12.61.015; AS 12.61.017; AS 12.45.042; AS 12.45.045(a); AS 47.12.110(b)].

To check the status of a criminal matter or next court date, the victim may contact a victim/witness paralegal at the District Attorney’s Office. Persons may also check the status of a criminal matter or the next court date by using the Alaska Court System’s CourtView web site at www.courtrecords.alaska.gov.

Victims’ Rights at Sentencing

• The court cannot reduce a defendant’s punishment based upon the failure of a crime victim to appear or testify [AS 12.55.151];

• For felony offenders, a probation officer’s pre-sentence report shall include a victim impact statement reporting any financial, emotional and medical effects of the offense upon the victim; the victim’s need for restitution and other information required by the court [AS 12.55.022; AS 12.61.010(a)(9)];
• For misdemeanor case, no pre-sentence report is written but a victim may address the court at sentencing [AS 12.61.010(a)(9)]. Victims should let the prosecutor know they would like to speak;

• All victims may submit to the court a written statement that the victim believes is relevant to the sentencing decision and may give oral presentation to the court at the sentencing hearing. If the victim declines to make a statement, the victim’s advocate from the Alaska Office of Victims’ Rights may submit a written statement or oral presentation at the hearing on behalf of the victim [AS 12.55.023(b); AS 24.65.110(b)];

• On a felony conviction, the court shall specifically make a finding regarding the financial, emotional and medical effects of the offense on the victim as well as the victim’s need for restitution [AS 12.55.025(a)(5)(A)-(B)];

• All victims have the constitutional right to confer with the prosecution [Art. I, section 24];

• Upon request by the victim in a felony or domestic violence case, the prosecutor shall confer with the victim about the victim’s testimony prior to trial [AS 12.61.015(a)(1)];

• Upon request in domestic violence cases, the prosecutor shall confer with the victim about proposed plea agreements prior to their acceptance [AS 12.61.015(a)(4)];

• Upon request, the prosecutor shall provide the victim with the address and phone number of the office preparing the pre-sentence report [AS 12.61.015(a)(2)(C)];

• Upon request, before sentencing, the prosecutor shall provide the victim with portions of the pre-sentence report outlining the summary of the offense prepared by the Department of Corrections; the defendant’s version of the offense; all statements and summaries of statements of the victim and DOC’s sentence recommendation [AS 12.55.023(a)(1)-(4)].

Victims’ Rights Related to Restitution

As a matter of public policy, the law favors requiring criminals to compensate victims for the injuries and damages they have received. Victims have a constitutional right to restitution from the defendant.

In a criminal case, victims should contact the victim/witness paralegal at the District Attorney’s Office regarding their restitution claim. The criminal restitution can only be for actual monetary expenses or losses, not for pain and suffering (although that may be available in a civil lawsuit) [AS 12.55.045(a)]. A criminal restitution order from the judge becomes a civil judgment that accrues interest and remains enforceable even after the defendant’s probation ends [AS 12.55.045(l)]. The Office of the Attorney General Collection Unit provides limited free collections assistance. For more information, please call (907) 269-5205.

Alaska’s victims’ rights statutes specifically provide that victims of crimes have the right to be notified of the procedure to be followed to apply for and receive any compensation under AS 18.67 from the Violent Crimes Compensation Board (VCCB). The VCCB is a “payer of last resort,” so only losses not compensated through other sources (insurance or civil lawsuit, etc.) are eligible [AS 18.67.090]. For VCCB claims, victims need to apply timely, fill out an application and provide documentation.

A restitution order does not limit any civil liability of the defendant for his or her conduct. Victims must provide the documentation supporting the claim of restitution in a timely manner. If a victim is not “made whole” by the restitution in the criminal case, the victim may choose to pursue a civil lawsuit. A referral for an attorney may be obtained from the Alaska State Bar Association [AS 12.55.045(a)(1); AS 12.61.010(a)(5); AS 18.67.175; AS 12.55.045(b)].

Victims’ Rights Post-Sentencing

Victims’ rights continue after a convicted criminal has been sentenced. Upon request, victims of felonies or domestic violence crimes are entitled to be notified by the prosecuting attorney of the final disposition (sentencing) of a case [AS 12.61.015(a)(3)]. All victims are entitled to notice if an appeal is filed [AS 12.61.010(a)(2)].

The defendant or the prosecutor may ask the trial judge to have sentencing moved to a three-judge panel [AS 12.55.175]. Victims have the right to attend the three-judge panel proceedings.

Upon request, a victim will be notified if the defendant escapes from custody or is released on furlough, early release or for any other release. Victims of domestic
violence crimes are entitled to automatic notification of escape. Upon request after a conviction of the defendant, a victim is entitled to information from the prosecutor about the defendant’s complete conviction history. For notification, victims must maintain a current address with the Department of Correction [AS 33.30.013(a)-(c); AS 12.61.015(a)(3), AS 12.61.010(a)(2), AS 33.30.013; AS 12.61.010(a)(10)].

Defendants convicted of misdemeanor crimes are not supervised while on probation but defendants convicted of felony crimes are supervised by the Department of Corrections. A defendant who violates probation may be brought back before the court on a Petition to Revoke Probation. Under the Victim Rights Act, the victim has the right to notice and opportunity to speak at any probation revocation proceeding involving conditions of release or sentencing (called “disposition” in probation proceedings).

Victims’ Rights Pertaining to Post-Sentencing Modifications

Victims are entitled to address the court at a defendant’s request to modify or reduce their sentence.

Upon request and providing address information to the Department of Correction, the Department shall provide notice of the prisoner’s request and send the victim a copy of any motions to modify or reduce sentence and inform the person of his or her:

- Rights under this section;
- The deadline for receipt of written comments; and
- The hearing date and the court’s address.

Victims must update the Department of Corrections with address information.

Upon request, the Department of Corrections shall notify the victim of hearings to consider or review discretionary parole. Victims must notify the Parole Board of their address information. Victims may write to the Parole Board or attending the hearing.

Before granting probation to persons convicted of domestic violence, the court shall consider the safety and protection of the victim and any member of the victim’s family. The court may impose any other conditions of probation necessary to protect the victim and any members of the victim’s family or to rehabilitate the defendant. If the victim has specific concerns or requests for probation conditions, the victim should contact the District Attorneys’ Office in advance of the sentencing [AS 12.55.088(d)(e) and (h); AS 12.61.010(a); AS 33.16.120; AS 12.55.101(a)].

Victims’ Rights and Executive Clemency

In 2007 legislation was passed which requires the governor to refer applications for executive clemency (including pardons) to the state parole board at least 120 days prior to any grant of clemency. The parole board is required to notify the Department of Law, the Office of Victims’ Rights and the victim of a crime involving domestic violence, arson in the first degree, or a crime against a person. Crimes against a person include homicides, assaults, sexual offenses and all other crimes set forth in title 11, chapter 41 of the Alaska statutes. This legislation (House Bill 69) was sponsored by Anchorage Representative Ralph Samuels and was signed into law by former Governor Sarah Palin on February 22, 2007 [AS 33.20.080(a)].

Access to Law Enforcement Records

Alaska’s public record law states that “unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public...” There are a number of exceptions to the general rule and one of those exceptions applies to “records or information compiled for law enforcement purposes...” This exception protects from disclosure the production of information that could reasonably be expected to interfere with enforcement proceedings, deprive a person of a fair trial or impartial adjudication, to name just a few examples. This same provision also protects from disclosure of information that “could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a...victim, or witness,” [AS 40.25.110(a); 12o(a)(6) and (a)(6)(C)].

Victims’ Rights in Juvenile Justice Cases

One of the goals of the Juvenile Justice System is to ensure that victims of crimes committed by juveniles are afforded the same rights as victims of crimes committed by adults [AS 47.12.010(b)(12)]. So victims generally have the same legal rights and should refer to the rights outlined above. But the
procedure and terms are different in a juvenile justice case; special provisions for victims’ legal rights in juvenile proceedings are described below. When the defendant is under 18 years of age, the case is called a juvenile delinquency proceeding [AS 47.12]. The defendant is referred to as the “minor” [AS 47.12.020]. The case is confidential, but the victim may attend and participate at all the proceedings that the minor has the right to attend [Alaska Constitution Art. I, sec. 24; AS 12.61.010(a)(1)(B), AS 47.12.110(b)].

The court may order the minor and the minor’s parent to make suitable restitution to the victim [AS 47.12.120(b)(4)]. The court may not refuse to make an order of restitution to the victim [AS 47.12.120(b)(4)(A)]. An order of restitution by the minor or minor’s parents to the victim becomes enforceable as a civil judgment even after the period of probation or commitment has expired (similar to an adult court judgment) [AS 47.12.170]. The Department of Law can collect the restitution on behalf of the victim unless the victim wishes to pursue the restitution without the Department [AS 47.12.170(b)]. If the victim chooses to and needs an attorney to enforce the order civilly, reasonable attorney fees and collection costs shall also be awarded [AS 47.12.170(a)].

Victims of crimes committed by minors are eligible for Violent Crimes Compensation to the same degree as those victims of adult defendants because the award is based on the crime and the losses incurred not the age or status of the defendant [AS 18.67.101].
Directory of Statewide Services

Alaska Bar Association Lawyer Referral
(907) 272-0352
1-800-770-9999
www.alaskabar.org

Alaska Council on Domestic Violence
Alaska Department of Public Safety; coordination of statewide services, education, grants to organizations
(907) 465-4356
www.dps.state.ak.us/cdvsa

Alaska Court System (Criminal Desk)
Anchorage: (907) 264-0471
Barrow: (907) 852-4800
Bethel: (907) 543-2298
Dillingham: (907) 842-5215
Fairbanks: (907) 452-9289
Homer: (907) 235-8171
Juneau: (907) 283-3110
Kenai: (907) 225-3195
Ketchikan: (907) 225-6420
Kotzebue: (907) 442-3208
Nome: (907) 443-5216
Palmer: (907) 746-8181

www.courts.alaska.gov

CourtView
Electronic information system to search for court date by defendant name or case number
www.courtreports.alaska.gov

Family Law Self-Help Center
(907) 264-0851
Toll free Alaska 1-866-279-0851
www.courts.alaska.gov/selfhelp.htm

Alaska Department of Corrections
Victim impact statements information, information and referral, notification of release, transfer, or escape of offenders

Victim Service Unit:
(907) 269-7384; 1-877-741-0741
Parole Board: (907) 269-4642
Probation Information: (907) 269-7367

www.correct.state.ak.us

Register for notification of release; check on convicted defendant custody location and incarceration status
VINE 1-800-247-9763
www.vinelink.com

Alaska Judicial Council
Criminal justice system: booklets on criminal justice system, victim’s guide
(907) 279-2526
1-888-790-2526
www.ajc.state.ak.us

Alaska Legal Services Corporation
Statewide free legal assistance to low-income Alaskans, senior citizens, and Native allotment applicants. Full range of services in areas of family law, housing, consumer, public benefits, health issues, income maintenance, protection from abuse, Native law, and wills. ALSC offers free legal clinics throughout the state and legal self-help and referral information online at: www.alaskalawhelp.org.

Anchorage: (907) 272-9431, 1-888-478-2572
Bethel: (907) 543-2237, 1-800-478-2230
Dillingham: (907) 842-1452, 1-888-391-1475
Fairbanks: (907) 452-5181, 1-800-789-6426
Juneau: (907) 953-7608
Kenai: (907) 225-6420
Ketchikan: (907) 442-3500, 1-877-622-9797
Nome: (907) 443-2230, 1-888-495-6663

www.alsc-law.org

Alaska Native Justice Center
(907) 793-3550
www.anjc.net

Alaska Network on Domestic Violence & Sexual Assault (ANDVSA)
Domestic violence/sexual assault: advocacy for victims, public information, training, technical assistance

Juneau: (907) 586-3650
Sitka: (907) 747-7545

Alaska Victims’ Rights Handbook
Legal Information & Referral Hotline
(Tuesdays 5-7pm only):
1-888-988-3725

www.andvsa.org

Alaska Office of Victims’ Rights
Legal assistance for crime victim advocacy
and for crime victims whose rights have
been denied by a justice agency

(907) 272-2620; 1-866-274-2620
www.ovr.legis.state.ak.us

Alaska Immigration Justice Project
The Alaska Immigration Justice Project is a non-
profit agency that provides low-cost immigration
legal assistance to immigrants and refugees in all
immigration applications including citizenship,
permanent resident status, work permits,
asylum, family-based petitions and immigration
petitions for immigrant victims of domestic
violence, sexual assault and human trafficking.

(907) 279-2457 (AIJP)
www.akijp.org

Catholic Social Services
Immigration & Refugee Project
Immigration problems resulting from domestic
violence, divorce, and criminal proceedings

(907) 222-7300
www.cssalaska.org/html/programs/
refugee-assistance.php

District Attorney Offices
Criminal prosecutions, victim-witness
coordinators, Booklets on sexual assault, domestic
violence, stalking, victims’ rights, and safety
planning. If you are in need of an interpreter
please let the district attorney’s office know.
One will be provided at no cost to you.

Anchorage: (907) 269-6300
Barrow: (907) 852-5297
Bethel: (907) 543-2055
Dillingham: (907) 842-2482
Fairbanks: (907) 451-5970

Juneau: (907) 465-3620
Kenai: (907) 283-3131
Ketchikan: (907) 225-6128
Kodiak: (907) 486-5744
Kotzebue: (907) 442-3396
Nome: (907) 443-2296
Palmer: (907) 761-5648
Sitka: (907) 747-5851

Statewide Victim/Witness
Coordinator: (907) 269-6379

www.law.alaska.gov/department/criminal/doa.html

National Domestic Violence Hotline
Domestic violence: crisis intervention,
information and referral, telephone language
translation and translated materials

1-800-799-SAFE (7233), 1-800-787-3224 (TTY)
www.ndvh.org

Office of Children’s Services
(907) 269-4000
Report child abuse: 1-800-478-4444
Parent Line: 1-800-643-KIDS (5437)
www.hss.state.ak.us/ocs

Office of Public Advocacy
Provides court appointed defense attorneys for
criminal defendants who cannot afford to hire
an attorney, and who for some reason cannot
be represented by the Public Defender Agency

Anchorage: (907) 269-3500
Bethel: (907) 543-1234
Fairbanks: (907) 451-5933
Juneau: (907) 465-4173
Palmer: (907) 745-0435

www.doa.alaska.gov/opa

Public Defender Offices
Provides court-appointed defense
attorneys for criminal defendants who
cannot afford to hire an attorney

Anchorage: (907) 334-4400; 1-800-478-4404
Barrow: (907) 852-2520; 1-800-478-2521
Bethel: (907) 543-2488; 1-800-478-2389
Dillingham: (907) 842-4582; 1-800-478-4582
Fairbanks: (907) 458-6800; 1-800-478-1621
Juneau: (907) 465-4911; 1-800-478-4910
Kenai: (907) 283-3129; 1-800-478-3129
Ketchikan: (907) 228-8950; 1-800-478-6189
Kodiak: (907) 486-8114; 1-800-478-8113
Kotzebue: (907) 442-3736; 1-800-478-3738
Nome: (907) 443-2271; 1-800-478-2279
Palmer: (907) 707-1710; 1-800-478-5661
Sitka: (907) 747-6808; 1-800-478-6809

www.doa.alaska.gov/pda

**Victims for Justice**

*Violent crime: advocacy, grief support, crisis intervention, assistance for homicide and assault survivors*

(907) 278-0977; 1-888-835-1213
www.victimsforjustice.org

**VINE (Victim Information and Notification Everyday)**

*Automatic notification of release, transfer or escape of offenders*

1-800-247-9763
www.vinelink.com

**Violent Crimes Compensation Board**

*Financial compensation for victims of violent crimes*

(907) 465-3040; 1-800-764-3040
www.doa.alaska.gov/vccb

**Directory of Crisis and Counseling Services by Location**

**ANCHORAGE**

**Abused Women’s Aid in Crisis (AWAIC)**

*Domestic violence: shelter, counseling, advocacy, crisis line, children’s services, batterer’s counseling*

**Business Line:** (907) 279-9581
**Crisis Line:** (907) 272-0100
www.awaic.org

**Alaska CARES**

(907)-561-8301; 1-877-561-8301
www.providence.org/alaska/tchap/cares/default.htm

**Chugachmiut**

*Tribal consortium to promote self-determination, temporary assistance for essential needs (shelter, food, clothing, burial)*

(907) 562-4155; 1-800-478-4155
www.chugachmiut.org

**Fort Richardson Community Services and Family Advocacy Program**

(907) 580-5358
**24-hour Sexual Assault Hotline:** (907) 384-7272
www.mwrarmyalaska.com/acs/familyadvocacy/familyadvocacy.html

**Municipality of Anchorage, Health and Human Services**

*Interpersonal Violence Prevention Coordinator:* (907) 343-6589
**Domestic Violence Prevention:** (907) 343-6302

**New Hope on the Last Frontier**

*Faith-based programs for adults and teens impacted by domestic violence*

(907) 274-2745
www.newhopeak.com

**Sexual Assault Response Program (EAFB)**

(907) 551-2033

**STAR (Standing Together Against Rape)**

*Sexual assault/child sexual assault: advocacy, crisis line*

**Business line:** (907) 276-7279
**Crisis Line:** (907) 276-7273, 1-800-478-8999;
TTY (907) 278-9988
www.staralaska.com
Tanana Chiefs Conference
Domestic violence: prevention, advocacy, information and referral, village outreach

(907)452-8251; 1-800-478-6822
Toll Free outside Alaska: 1-800-770-8251
www.tananachiefs.org

BARROW

Arctic Women in Crisis
Domestic violence/sexual assault shelter, counseling, advocacy, crisis line, rural outreach, children’s services

Business line: (907) 852-0261
Crisis line: (907) 852-0274, 1-800-478-0267

BETHEL

Association of Village Council Presidents, Inc. (AVCP)
Social Services strives to improve the family base by providing services to meet the basic needs, including: general assistance, energy assistance, older Americans, and advocacy.

(907) 543-7472; 1-800-478-3521
www.avcp.org/dept/socialservices.htm

Tundra Women’s’ Coalition
Domestic violence/sexual assault shelter, counseling, advocacy, crisis line, rural outreach, children’s services

Business line: (907) 543-3444
Crisis Line: (907) 543-3456, 1-800-478-7799
www.tundrapeace.org

Yukon-Kuskokwim Health Corporation
YKHC Behavioral Health Services provides an array of holistic, life-enhancing, culturally-based behavioral health services for the people of the Yukon-Kuskokwim Delta.

Cordova Family Resource Center
Domestic violence/sexual assault shelters, crisis line, advocacy, library, public education

Business line: (907) 424-5674
24-hour Crisis line: (907) 424-HELP (4357); 1-866-790-4357

DILLINGHAM

Safe and Fear-Free Environment (SAFE)
Domestic violence/sexual assault shelter, counseling, crisis line, rural outreach, children’s services, village safe houses, coordination with Bristol Bay Native Association

Business line: (907) 842-2320
Crisis line: 1-800-478-2316
www.besafeandfree.org

Emmonak Women’s Shelter
Domestic violence shelter, crisis intervention
(907) 949-1434

FAIRBANKS

Interior Alaska Center for Non-Violent Living (IAC)
Domestic violence/sexual assault shelter, advocacy, counseling, crisis line, elder abuse, children’s services, rural outreach

24-hour Support: (907) 452-2293, 1-800-478-7273
www.iacnvl.org
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<th>Location</th>
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<td>Homer</td>
<td>South Peninsula Haven House</td>
<td>Domestic violence/sexual assault shelter, support group, advocacy, crisis line, education, children's services</td>
<td>(907) 235-7712</td>
<td>(907) 235-8943; 1-800-478-7712</td>
<td><a href="http://www.havenhousealaska.org">www.havenhousealaska.org</a></td>
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<tr>
<td>Kenai / Soldotna</td>
<td>The Leeshore Center</td>
<td>Domestic violence/sexual assault shelter, support, advocacy, crisis line, elder abuse, children's services, transitional living center, men's re-education program</td>
<td>(907) 283-9479</td>
<td>(907) 283-7257</td>
<td><a href="http://www.alaska.net/~leeshore/">www.alaska.net/~leeshore/</a></td>
</tr>
<tr>
<td>Ketchikan</td>
<td>Ketchikan Indian Community</td>
<td>Social Services section provides domestic violence and batterer's intervention programs.</td>
<td>(907) 228-4917</td>
<td></td>
<td><a href="http://www.kictribe.org">www.kictribe.org</a></td>
</tr>
<tr>
<td>Kodiak</td>
<td>Kodiak Women’s Resource &amp; Crisis Center</td>
<td>Domestic violence/sexual assault shelter, counseling, advocacy, crisis line, children's services</td>
<td>(907) 486-6171</td>
<td>(907) 486-3625</td>
<td></td>
</tr>
<tr>
<td>Kotzebue</td>
<td>Maniilaq Family Crisis Center</td>
<td>Domestic violence/sexual assault shelter, counseling, advocacy, crisis line, village advocate</td>
<td>(907) 442-3724, 1-888-478-3312</td>
<td></td>
<td><a href="http://www.maniilaq.org/familyResources.html">www.maniilaq.org/familyResources.html</a></td>
</tr>
<tr>
<td>Ketchikan</td>
<td>Church on the Rock</td>
<td>Fresh Start Faith-based community victim services</td>
<td>(907) 373-7910</td>
<td></td>
<td><a href="http://www.churchontherockak.org">www.churchontherockak.org</a></td>
</tr>
</tbody>
</table>

**Women in Safe Homes (WISH)**
Comprehensive intervention and prevention, outreach and education regarding domestic violence, sexual assault and child abuse.
(907) 247-WISH (9474), 1-800-478-9474
www.ketchikanwish.org
NOME

Bering Sea Women’s Group
Domestic violence/sexual assault shelter, counseling, advocacy, rural outreach, children’s services
(907) 443-5491; 1-800-570-5444

SEWARD

Seaview Community Services
Domestic violence/sexual assault: safe houses, counseling, advocacy, crisis line
Business line: (907) 224-5257
Crisis Line: (907) 224-3027
www.seaviewseward.org

SITKA

Sitkans Against Family Violence
Domestic violence/sexual assault shelter, counseling, advocacy, crisis line, rural outreach, children’s services
Business line: (907) 747-3370
Crisis Line: (907) 747-6511, 1-800-478-6511
www.safv.org

UNALASKA

Unalaskans Against Sexual Assault & Family Violence
Domestic violence/sexual assault safe homes, counseling, advocacy, crisis line
Crisis Line: (907) 581-1500; 1-800-478-7238

VALDEZ

Advocates for Victims of Violence
Domestic violence/sexual assault shelter, counseling, advocacy, crisis line, rural outreach, children’s services
Business line: (907) 835-2980
Crisis line: (907) 835-2999, 1-800-835-4044
www.avvalaska.org

“Funding for this project was supported by Grant No. 2005-WF-AX-0027 awarded by the Office on Violence Against Women, U. S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice, Office on Violence Against Women.”
NOTICE TO DEFENSE REPRESENTATIVE OF
REQUEST NOT TO BE CONTACTED

RE: STATE v.

CASE NO.:

ALASKA STATUTE 12.61.125

To Whom It May Concern:

I understand I and my minor child ____________________________ have a right as victims of this crime to decline any contact from the defendant's lawyer, or an investigator or other person acting on behalf of the defendant. I request that this letter serve as notice that we wish to exercise that right.

SIGNATURE: ____________________________________________

DATE: __________________________________________________

SIGNATURE OF MINOR: __________________________________

DATE: __________________________________________________
<table>
<thead>
<tr>
<th>DESCRIBITIONS AND SENTENCES FOR FELONY CRIMES IN ALASKA</th>
<th>First Felony</th>
<th>Second Felony</th>
<th>Third+ Felony</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No weapon or serious injury</td>
<td>Weapon or serious injury</td>
<td>No prior sex felony conviction</td>
<td>One prior sex felony conviction</td>
</tr>
<tr>
<td>Unclassified Sex Felony</td>
<td>2005 8 to 12</td>
<td>12 to 16</td>
<td>15 to 20</td>
<td>20 to 30</td>
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<tr>
<td>Forcible rape; intercourse w/child &lt;13; intercourse by parent w/child &lt;18; pos of authority victim &lt;16; or (2007) promoting prostitution 1st degree victim &lt;18 - raised from class A felony</td>
<td>2006 20 to 30 or 25 to 35 if victim &lt;13</td>
<td>25 to 35</td>
<td>30 to 40</td>
<td>35 to 45</td>
</tr>
<tr>
<td>Unclassified Non-Sex crimes</td>
<td></td>
<td></td>
<td>Mandatory 99</td>
<td>99</td>
</tr>
<tr>
<td>First degree murder of police; repeat murder conviction; with torture or during robbery; or (2007) murder by police</td>
<td>2005 20 to 99</td>
<td></td>
<td>40 to 99 if both prior felonies are class A felony or higher</td>
<td>99</td>
</tr>
<tr>
<td>First degree murder</td>
<td></td>
<td></td>
<td>99</td>
<td></td>
</tr>
<tr>
<td>Second degree murder of child, or unborn</td>
<td>2005 20 to 99</td>
<td></td>
<td>40 to 99 if both prior felonies are class A felony or higher</td>
<td>99</td>
</tr>
<tr>
<td>Second degree murder; murder of unborn child under AS 11.41.150(a)(2)-(a)(4)</td>
<td>2005 10 to 99</td>
<td></td>
<td>40 to 99 if both prior felonies are class A felony or higher</td>
<td>99</td>
</tr>
<tr>
<td>Court imposed guideline 20-30 for typical non-vehicular</td>
<td></td>
<td>20-30 for typical non-vehicular</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Typical vehicular murder gets 10 years</td>
<td>5 to 99</td>
<td></td>
<td>40 to 99 if both prior felonies are class A felony or higher</td>
<td>99</td>
</tr>
<tr>
<td>Attempted murder; murder conspiracy; kidnap w/victim injured or held 24 hrs.</td>
<td>2005 5 to 8</td>
<td>10 to 14</td>
<td>12 to 16</td>
<td>15 to 20</td>
</tr>
<tr>
<td>Class A Sex Felony</td>
<td>2006 15 to 30 or 20 to 30 if victim &lt;13</td>
<td>25 to 35</td>
<td>25 to 35</td>
<td>30 to 40</td>
</tr>
<tr>
<td>Attempted unclassified felony; (2007) promoting prostitution 1st degree victim 18 or over – raised from class B felony; (2011) repeat unlawful exploration of minor; or online enticement of minor by sex offender</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class A Felony Non-Sex Crimes</td>
<td>2005 5 to 8</td>
<td>7 to 11 includes drunk driving manslaughter; serious injury to police; manuf. meth around child &lt;18</td>
<td>15 to 20</td>
<td>20</td>
</tr>
<tr>
<td>Manslaughter; kidnapping if victim released unharmed; serious physical injury due to shooting, stabbing, etc.; armed robbery; arson that endangers persons; blowing up the Trans-Alaska pipeline; prison escape with gun; drive-by shootings; MICS second degree</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Appendix C-3 - JSC-SAS Jurisdictional Documentation - Alaska
<table>
<thead>
<tr>
<th>Class B Sex Felony</th>
<th>First Felony</th>
<th>Second Felony</th>
<th>Third+ Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fondling w/o consent; intercourse w/unconscious or mentally ill; intercourse w/13 to 15-year-old; fondling child &lt;13; fondling by parent of child &lt;18 or teacher w/student &lt;16; makes child porn; unlawful exploit; (2006) intercourse by pos of authority victim 16-17; (2011) online enticement; repeat dist. of child porn</td>
<td>2005</td>
<td>2 to 4</td>
<td>5 to 8</td>
</tr>
<tr>
<td></td>
<td>2006</td>
<td>5 to 15</td>
<td>10 to 25</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Class B Felony Non-Sex Crimes</th>
<th>First Felony</th>
<th>Second Felony</th>
<th>Third+ Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crim neg homicide; physical injury due to shooting, stabbing, etc.; serious physical injury w/o weapon; extortion; death of a child if child left w/known abuser; terrorism with biological agents; or (2007) prostitution enterprise, pimping, sex tourism, class C felony</td>
<td>2005</td>
<td>1 to 3 (SIS permitted if prison imposed as condition)</td>
<td>2 to 4 criminally negligent homicide of child &lt;16; attempted manuf. meth around child &lt;18</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Class C Sex Felony</th>
<th>First Felony</th>
<th>Second Felony</th>
<th>Third+ Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fondling of unconscious or mentally ill victim; possession of child porn; attempted class B felony sex crimes; (2011) distribution of child pornography</td>
<td>2005</td>
<td>1 to 2</td>
<td>2 to 5</td>
</tr>
<tr>
<td></td>
<td>2006</td>
<td>2 to 12</td>
<td>8 to 15</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Class C Felony Non-Sex Crimes</th>
<th>First Felony</th>
<th>Second Felony</th>
<th>Third+ Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assault w/deadly weapon; felony stalking; intentionally deserting a child; sexual abuse of a child if child left w/known abuser; terroristic threats; fondling of child 13-15; or (2007) madam, etc. - raised to class C felony</td>
<td>2005</td>
<td>0 to 2 (SIS permitted)</td>
<td>2 to 4</td>
</tr>
</tbody>
</table>

2005 laws effective and apply to crimes committed on or after March 23, 2005; 2006 laws apply on or after April 29, 2006; 2007 laws apply on or after July 1, 2007 or July 26, 2007; 2011 laws apply to crimes committed on or after July 1, 2011.
A. Introduction

Maricopa County, Arizona, has a land area of approximately 9,200 square miles and a population of approximately 3,950,000, which makes it Arizona’s most populous county and accounts for almost half of Arizona’s population. Phoenix, Tempe, and Scottsdale are all located in Maricopa County. Luke Air Force Base is located in the city of Glendale. Arizona State University’s main campus in Tempe is home to approximately 60,000 students. There are about 27.2 forcible rapes per 100,000 inhabitants.

B. Law Enforcement

In the larger police agencies such as the Phoenix Police Department, detectives are assigned to specialized sex crimes investigative units. While prosecutors need to be cognizant of not compromising immunity by staying within the prosecution field, the expectation is that the on-call prosecutor will work with the investigator in an advisory capacity and make suggestions to improve the likelihood of a successful prosecution.

1. Investigations

Prosecutors are always on call for investigators. Prosecutors work with over 20 police agencies within the County.

Most victim interviews take place at one of the six advocacy centers located in the county. There are six advocacy centers within the County. The common practice is that victims will respond to an advocacy center rather than a hospital. In the city of Phoenix, if there is a 911 call to the Police Department, a patrol officer will transport the victim to an advocacy center, which triggers a call to a police detective assigned to investigate sex crimes, a victim advocate/crisis counselor, and Sexual Assault Nurse Examiner/Forensic Nurse Examiner (SANE/FNE). The investigation is victim centered. Most agencies use an Advocacy Center. Even the smaller agencies dedicate two people who work exclusively on sexual assault cases.

Police also frequently use “confrontation” calls, or pretext calls to gain corroborating evidence. These calls are usually made from the Advocacy Center.

Victim interviews are videotaped. The primary purpose of the videotaped interview is to reduce the number of victim interviews and to be able to defend the interview in court (that it was not leading). Investigators undergo training before they can conduct an interview. Patrol officers limit questions to the basic information and reserve a full interview for forensic interview at an advocacy center. The practice is to do the interview before the medical examination. Interviews are done one-on-one, lead detective and victim. Prosecutors do not take part in the interview, but they may watch it. Detectives have training on interviewing both adult and child victims. SANE interviews are not videotaped.
Suspect interviews are videotaped. Prosecutors don’t participate in the interviews, but they train police to provide the courtroom perspective to police. Any forensic exams completed of the suspect are done at the jail or police station, not the advocacy center.

In sex crime cases, the victim is, as a matter of policy, generally not charged with criminal action if there was some sort of low-level crime committed at the time a sexual assault occurred.

A detective will typically be present at the prosecutor’s table during trial. Prosecutors call it “invaluable” for both the detective and prosecutors. New prosecutors can learn from a seasoned detective and the detective is there to get things needed during trial. New detectives are able to see the trial process up front and can see what evidence works, what doesn’t, and what juries think of investigations and evidence. Seasoned detectives and supervisors call it the “best learning tool.”

“Restricted” reporting began approximately 5 years ago. Forensic evidence collected during the SANE exam is held for 90 days, and then turned over to the agency for storage. It is rare that a victim undergoes a medical exam without participating in law enforcement. Police have discretion to close cases without referring them to the prosecutor.

C. Prosecution Function

1. Organization & Structure

The Maricopa County District Attorney’s Office is organized into Divisions with Specialty Bureaus within a Division. The Sex Crimes Bureau in the Major Crimes Division is responsible for cases involving sexual abuse of children and adults, child prostitution, child pornography and computer-related sex crimes. There are 19 attorneys in the Sex Crimes Bureau, including the lead, plus other staff and paralegals.

2. Training & Experience

The level of experience is mixed among prosecutors assigned to prosecute sexual assaults. Because of budget cuts, the experience level of prosecutors is less than it once was. Attorneys can stay in the bureau as long as they want to, currently, prosecutors range from fairly new to having 17 years of experience.

New prosecutors go through a four-week initial training. They also attend a training of in-house and statewide training before being assigned to specialty bureaus. The statewide training includes interviewing, which is frequently taught by senior prosecutors from Maricopa County. They will then work for at least 9-12 months in the Justice Courts handling misdemeanor crimes such as DUI, misdemeanor Domestic Violence (DV) cases, etc. Prosecutors will then be assigned to one of the trial bureaus that do not fall under Specialty Bureaus (e.g., property crimes, crimes involving a weapon). They will then be assigned to the Specialty Bureaus (e.g., Sex Crimes).
The prosecutor’s office has paid for joint training to allow prosecutors and law enforcement to attend jointly. This puts everyone on the “same page,” gives them the same vernacular and same investigative practices.

Prosecutors can request to be moved to a specialty bureau, but assignments are made based on aptitude and recommendations from the division chiefs. They will typically work three to four years before being assigned to a specialty bureau. However, from the beginning stages, prosecutors can make requests to go to a certain bureau. They will be permitted to attend staff meetings, try some limited cases and attend some training if available. Not everyone is right for working in the sex crimes bureau, and this applies to investigators, medical personnel and prosecutors.

Prosecutors co-try cases when first assigned to specialty bureaus. There is a program of mandatory reading, training, and activities a prosecutor must complete, similar to a Personnel Qualification Standard (PQS). The training includes medical findings in a sexual assault case and how to talk to the victim. They also complete basic and advanced forensic interviewing courses, training on DNA, pretext calls, interviewing suspects and an 8-hour basic investigation course. They also have mandatory reading that includes sentencing structure and laws, victim advocacy training, a tour of the advocacy center, training regarding evidence in sexual assault cases, and other “brown bag” seminars.

The case loads are a little higher than is optimal, with a prosecutor typically having 30-35 cases set for trial at any given time. Overall, the office had 35,000 felony cases for trial and another 20,000 reviewed in a year. 70-80% of the cases submitted are charged, but this includes all felonies, not just sex offenses. Conviction rates in the County are approximately 90%. Over 80% of cases are pled out. Statewide, there were 1653 reported sexual assaults in 2011. Of those, there were 226 arrests. 211 cases were submitted to the Maricopa County District Attorney for charging and 117 of the cases were filed, making the percentage of cases charged 55%.

The two main reasons for declining to file charges are that there is “no reasonable likelihood of conviction,” or, that there is a lack of corroboration on the issue of consent.

D. Victim Services

Victim advocates are assigned in all sex crime cases. They address the victim’s general questions about the criminal justice system, keeping them apprised of the status of their case and resources available (counseling, therapy). Victim advocates are employed by police departments and the District Attorney’s Office. At the police departments, victim advocates help officers support the victim in terms of crisis management, rather than with the judicial process. Where there aren’t police advocates, community victim advocates work out of the advocacy centers and are present for victim support from the beginning of the investigation.
Once a suspect is charged, the District Attorney’s victim advocates get involved. They are organized like the Divisions and Bureaus in the District Attorney’s Office, so in many cases a victim advocate will work with the same prosecutor. They have a victim advocate-victim privilege (that however does not extend to *Brady* material). They are considered extremely valuable by prosecutors. Victim advocates do not provide counseling. Victim advocates are required to have a bachelor’s degree and typically have worked as probation or parole officers or for other agencies. There is a training period before they begin shadowing experienced victim advocates. Typically they handle assignments on their own after a few months.

Once a case is charged there is a shift in responsibility from advocates involved at the advocacy center to a victim advocate from the prosecutor’s office. Victim advocates become involved after the prosecutor makes a charging decision. The victim advocate will provide general information, discuss potential plea offers and even conduct a home visit.

The victim is prepared for trial by the prosecutor and victim advocate. If the victim has a victim counsel (VC), the VC may also help prepare the victim. Typically, there is trial preparation in the courtroom. In addition, victim advocates and victim counsel frequently bring victims to court to watch the defense attorney appear in court on other cases, not the victim’s case. This will desensitize the victim to the court process and also give the victim a preview of the defense attorney’s personality in court. This needs to be done carefully, depending on the victim’s readiness, and it’s best to do it with inconsequential issues that are not related to the victim’s case.

In addition to victim advocates, there is a “therapy dog” that is used for child and some adult victims.

Investigators are also assigned to assist prosecutors in the sex crimes bureau, as well as other divisions. There are 50 investigators and support staff assigned to the office. Many are experienced law enforcement officers.

E. Public Defender

The Public Defender’s Office is similar in that it requires a certain level of experience/cases before assignment to sex crimes. There has been an increase in representation by private attorneys.

F. Victim Counsel

The Arizona Voice for Crime Victims (AVCV) represents some crime victims in Arizona. It receives some support from a government grant, which supports services to victims from a local university. The Arizona Voice for Crime Victims (AVCV) ([www.voiceforvictims.org](http://www.voiceforvictims.org)), an IRS 501(c) (3) organization, is staffed by an attorney, social worker, and assistant. A victim legal counsel will typically handle 20 to 25 cases, but not more than 40-50 cases at any given time.
In addition, there are attorneys in private practice who provide victim’s rights representation. Prosecutors can assert victim’s rights and judges have an independent duty to protect victim’s rights. Victims have a victim counsel or private attorney in less than 1% of the sexual assault cases. Whether or not there is a victim counsel, the District Attorney’s Office sees no conflict between the prosecutor making his case and also expressing the victim’s possibly contrary wishes.

The victim legal counsel provides assistance to the victim throughout the case, although he is not involved in the investigation of the case. The VC files a Notice of Appearance with the Court, which also serves to educate the judge on Arizona’s Crime Victim’s Rights laws (Arizona Revised Statutes, Title 13, Chapter 40).

The VC enjoys a cooperative relationship with prosecutors. Interference with the prosecutor’s case is rare. In adult sexual assault cases, the issues the VC typically deals with are (1) the victim’s right to privacy, specifically when the defense is requesting 3rd party records; (2) the right to presence in the courtroom; and (3) the victim’s right to be informed, present, and heard at bail hearings.

In some cases, the prosecutor’s office will refer the victim to victim’s counsel to ensure the victim’s rights are upheld. There is a close relationship. One of the prosecutors in the Appellate Unit worked as a victim counsel prior to being employed by the District Attorney.

G. Criminal Procedures

1. Charging

There were 211 reported sexual assaults to the Maricopa County District Attorney’s Office last year; of those, 117 cases filed charges, making the percentage of cases charged 55%. However, that number (117) is based on the highest charge applicable in the case, so the number of cases where a sexual assault occurred may be underrepresented. For example, an attempted murder/rape case would not be reflected in the 117 cases. Statewide, there were 1653 reported sexual assaults in 2011. Of those, there were 226 arrests statewide. All of the arrests in the state were not submitted to the Maricopa County DA for charging, but that office does cover two-thirds of the state’s population.

There are charging standards that prosecutors follow, but prosecutors are permitted to deviate from the standards in appropriate cases. An experienced prosecutor can make a decision to charge a suspect on his own. Even if the prosecutor is experienced, a second opinion must be sought if the decision is to decline prosecution. The prosecutor takes into account what juries will typically look for and the reasonable likelihood of conviction. Victim advocates are welcome to participate in charging meetings, but prosecutors and victim advocates generally have no direct contact with a victim before a charging decision is made.
The standard when considering charging is whether there is a reasonable likelihood of conviction. “No reasonable likelihood of conviction” is the most common reason for declining to charge. Typically, this will be because there is a lack of corroboration on this issue of lack of consent. Declination memos are not released because the District Attorney’s Office does not want to provide them with information that would let them know how to get a case closed. The prosecutor takes into consideration that if a case is charged, it will stay on the defendant’s record forever. In addition, it is sometimes better not to charge a case for the victim when a conviction is unlikely, as it can empower a defendant who is not convicted.

When a report of sexual assault is received, the prosecutor has three options: charge the case, request further information (“Further”), or decline to file charges (“Turn Down”).

If there is a “Turndown,” the victim is sent a letter indicating that the case will be closed without filing charges, but gives the victim 30 days to request an interview to discuss the case and possibly get a different outcome. Cases can always be re-opened until the statute of limitations has passed. If the victim is not able to accept the prosecutor’s decision, meetings can be set up between the victim and a supervising prosecutor, all the way up the chain to the elected prosecutor.

If a case is declined, the preference is to write a general statement as opposed to an evidentiary analysis, which might be later used for inappropriate purposes.

2. Preliminary Hearing

Victims do not testify at Grand Jury hearings. The police will provide testimony at this hearing. Instead, the District Attorney may file a complaint and then there will be a preliminary hearing. The victim may need to testify if the defense requests, or to preserve testimony. Preservation of testimony is only an issue if there is a health issue or in some domestic violence cases.

3. Pleas

Victims typically will have an opportunity to provide input during plea negotiations. The prosecutor will usually give the plea offer to the victim advocate, who will advise the victim of the offer and explain the terms. It is rare that the victim disagrees with the prosecutor, but if so, the prosecutor will discuss the offer and reasons for making it with the victim. Plea offers may be adjusted where there conditions that important to the victim and within the scope of the case.

Plea offers are staffed by the Bureau, so that offers remain consistent. If a plea offer is made that is outside of policy, it must be specifically approved. One of the reasons for staffing of plea offers is to ensure parity between the offers prosecutors make and to give training to newer prosecutors.
4. **Sentencing**

When there is a conviction, it is the judge who selects the sentence, except in capital cases. There are mandatory sentences for sexual assaults. There are also mandatory consecutive sentences for sexual assaults. Arizona has severe sentences for sex crimes, including flat time (day for day) and lifetime probation.

At sentencing, the victim can read a letter or have it submitted to the court, make a statement, make a video for viewing by the court, or choose not to submit anything. The prosecutor can read the letter or make the statement for the victim. There is no right to cross-examine the victim at this stage in the proceedings. The information does not need to be provided to the defense before the sentencing hearing.

5. **Clemency**

There is an executive board that conducts clemency review and makes recommendations to the Governor. The District Attorney’s Office has begun taking a more active role in the clemency procedure to ensure the victim’s rights are taken into account.

6. **Measuring Success:**

While there is an overall 95% conviction rate on the cases charged, that is not the measure of success for the prosecution. If the evidence is not available to support a conviction, the case should not be charged. Cases are difficult where there is alcohol or drugs involved and the suspect and victim know each other.

The office has sometimes worked with a jury consultant.

The office sends out victim surveys at the time the case is completed. Only three to four percent are returned. More often in sex cases, the prosecutors will receive letters from victims when they feel there has been a successful outcome (regardless of whether the case went to trial). Prosecutors feel that not getting feedback in their efforts to advocate and provide for victim rights mean that things are going well. The office will occasionally take a type of crime and study from investigation through closing to look for ways to do better.

Other ways of measuring effectiveness:

- Participation rates of victims
- Whether victims are reporting crimes earlier
- Medical timeliness
- Ability to conduct one good interview with victim
- After trial, getting feedback from juries
- Community attitude surveys
H. **Best Practices**

1. That there is a means of enforcing victim’s rights and that Victim’s Counsel (VC) are available for representation of victims where necessary.

2. A VC is most beneficial when there is a conflict between the victim and the prosecutor. Victim advocates and prosecutors can advise the victim and protect their rights.

3. A victim advocate, rather than a VC, is better suited to guide a victim through the process as they generally are more empathetic communicators than attorneys. The focus of the VC should be the legal issues.

4. Prosecutors should be selected based on interest, enthusiasm, skill, etc, rather than assigned.

5. Consideration should be given to long term assignments prosecuting or defending sexual assault cases and to making promotions and assignments based on the specialized experience base of these attorneys.

6. Videotaped victim interviews reduce the number of interviews necessary and can facilitate guilty pleas when a recorded interview is provided to the defense as part of discovery.

7. Victim surveys are done when the case is complete to evaluate the service the victim receives from the victim advocate and prosecutor. However, surveys usually result in only a 3-4% return rate.
The criminal justice system can be daunting, confusing and even stressful for crime victims. Fortunately, help is available from the Victim Services Division of the Maricopa County Attorney’s Office. Our mission is to assist crime victims throughout the criminal justice process by providing advocacy, support and services.
Arizona's constitution guarantees specific rights for crime victims, including the right to:

- Be treated with fairness, respect and dignity, and to be free from intimidation, harassment or abuse throughout the criminal justice process.
- Be notified when the accused or convicted person is released from custody or has escaped.
- Be present at all criminal proceedings where the defendant has a right to be present.
- Be heard at any proceeding involving a release decision, a plea offer, or sentencing.
- Discuss with the prosecution before trial any discovery request by the defendant or defendant's representative.
- Receive prompt restitution from a defendant or injury.
- Refuse an interview, deposition or other evidence.
- Discuss with the prosecution before trial any decision, a plea offer, or sentencing.
- Be notified and provided the reason(s) for a defendant's sentence.
- Be present at all criminal proceedings where the defendant has a right to be present.
- Be notified by a custodial agency of a defendant's death, release, discharge or escape.
- Be notified of any conduct by the defendant that raises substantial concern for the victim's safety.
- To be present and heard at proceedings where their participation would significantly aid the defendant.
- To be notified of and present at any sentencing proceeding.
- To be notified of the defendant's sentence.
- To give a written or verbal impact statement to the judge.
- To be notified of the defendant's probation, revocation or modification.
- To be notified of any proceedings where the defendant's probation is terminated or modified.
- To be notified of any proceeding involving a defendant's family or defense witness.
- To be notified of and present at proceedings or obtain an Order of Protection/Injunction against Harassment.
- To be notified of and present at proceedings where the right to be present is being considered.
- To be notified of any proceedings where the right to be present is being considered.
- To be notified of all criminal proceedings where the defendant has a right to be present, and the right to be heard by the court at sentencing and restitution hearings.

To exercise notification and other rights, crime victims must “opt in” by completing the appropriate forms. To do so, contact the MCAO Victim Services Division at (602) 506-8522.

For more information about Victims' rights or MCAO Victim Services, go to:

www.MaricopaCountyAttorney.org

Let us be your voice

The CRIME VICTIMS’ BILL OF RIGHTS

THE CRIME VICTIMS’ BILL OF RIGHTS

Victims have the right:

- To be notified of the defendant’s sentence.
- To be notified of and present at any sentencing related proceeding.
- To receive a copy of the pre-sentence report, if available.
- To be provided the name and number for the probation officer preparing the presentence report.
- To give a written or verbal impact statement to the judge.

WHEN A DEFENDANT IS SENTENCED

Victims have the right:

- To be notified of the defendant’s sentence.
- To be notified of and present at any sentencing related proceeding.
- To receive a copy of the pre-sentence report, if available.
- To be provided the name and number for the probation officer preparing the presentence report.
- To give a written or verbal impact statement to the judge.

WHEN CHARGES ARE FILED

Once a case is brought against a defendant, the Court is required to provide appropriate safeguards limiting the defendant, the defendant’s family and defense witnesses from having unnecessary contact with the victim, the victim’s family and the victim’s witnesses. If the count(s) or case involving a victim are dismissed as part of a plea agreement, victims can still exercise these rights.

TIME OFF FROM WORK

Under A.R.S. § 13-4439, a victim has the right to leave work to exercise their right to be present at proceedings or obtain an Order of Protection/Injunction against Harassment.

POLICE REPORTS

Victims are entitled to a copy of each police report which lists them as a victim. Reports can be obtained from the law enforcement agency that took the report or investigated the crime. Some information, such as addresses or phone numbers, may be redacted from the report. Depending on the stage of the investigation, all or part of the report may not be available.

PERSONAL PROPERTY EVIDENCE

If your personal property is used as evidence in a criminal case, law enforcement agencies must keep it throughout the trial and possible appeal. For questions about the return of property that has been used for evidentiary purposes, please contact the detective, prosecutor or Victim Advocate assigned to your case.

AFTER THE CASE IS OVER

Victims have the right:

- To be notified of the timing and outcome of any post-conviction proceedings or appeal.
- To be present and heard at proceedings where post-conviction release is being considered.
- To be notified of any proceedings where the defendant’s probation is terminated, revoked or modified.
- To be notified of any conduct by the defendant that raises substantial concern for the victim’s safety.
- To be notified by a custodial agency of a defendant’s death, release, discharge or escape.

NEIGHBORHOOD ASSOCIATION VICTIMS

Under Arizona law, neighborhood associations can invoke victims’ rights if they have been negatively impacted by statutory crimes such as prostitution, drug dealing, graffiti, and certain gang-related offenses. These organizations and their lawful representatives have the right to be present at these proceedings, to be heard by the court and to submit information and their opinions on restitution and sentencing.

CHILD VICTIMS

The Child Advocacy Bureau is comprised of specially trained victim advocates and resources dedicated to addressing the unique needs of children who are victims of crime.

BUSINESS VICTIMS

Businesses that have been victim of crime have the right to request notification of sentencing and restitution proceedings. In addition, business owners and their legal representatives have the right to be present at these proceedings, to be heard by the court and to submit information and their opinions on restitution and sentencing.
~Directive for Medical-Forensic VAWA Examinations~

This directive was implemented to satisfy the Violence Against Women Act (VAWA) 2005 Reauthorization Forensic Compliance Mandates.

I. Maricopa County is required to offer victims of sexual assault a complete sexual assault examination to all patients, age 13 (thirteen) and older, who present within 120 hours post assault, regardless of whether they choose to report the assault to law enforcement. Law enforcement authorization for the sexual assault examination is NOT required.

II. No examination will be performed if there is no reasonable likelihood that evidence will be recovered based on the information provided to the Forensic Nurse Examiners.

III. Nothing in this directive shall be construed to override any mandatory reporting requirements, including those specified in A.R.S. § 13-3620 and A.R.S. § 46-454. This includes, but is not limited to, the name and address of the patient.

IV. If the case does not involve a mandatory report, the Scottsdale Healthcare Forensic Nurse Examiners will perform these examinations Monday–Friday between the hours of 7am until 5pm (hereinafter “normal business hours”) at the Scottsdale Family Advocacy Center located at 10225 East Via Linda, Scottsdale, Arizona, 85258. In addition, the Scottsdale Family Advocacy Center has a phone line dedicated to receiving calls from individuals seeking a medical forensic exam. This phone line (480-312-6339) will be operational 24 hours a day/7 days a week and will be equipped with voice mail. Forensic nurse examiners will monitor the phone Monday through Friday, including hours outside of normal business hours. At the discretion of the Scottsdale Healthcare Forensic Nurse Examiners, the exam may be performed at another location at a time other than normal business hours. If the case does involve a mandatory report, the Scottsdale Healthcare Forensic Nurse Examiners will comply with the appropriate mandatory reporting
statute. The exam shall be conducted at a time and location consistent with any applicable protocol and in consultation with the appropriate law enforcement agency.

V. The Scottsdale Healthcare Forensic Nurse Examiners shall collect the sexual assault kits and evidence as well as maintain the records.

   a. The sexual assault kit and evidence will be identified by the Scottsdale Healthcare medical record number
   b. In cases involving a mandatory report, the patient shall sign the consent form located in the Sexual Assault Examination kit. (Appendix A).
   c. In cases not involving a mandatory report, the patient shall sign the informed consent form. (Appendix B).
   d. Signed consent forms will be kept with the Sexual Assault Examination Report.

VI. The Scottsdale Healthcare Forensic Nurse Examiners shall provide the following information to patients:

   a. The identifying medical record number.
   b. The date of the examination.
   c. The name and location of where the examination was conducted.
   d. The ninety (90) day expiration date for storage of report and evidence shall be provided in cases not involving a mandatory report.

VII. Scottsdale Healthcare Forensic Nurse Examiners shall maintain the chain of evidence until the sexual assault examination kit and other evidence is turned over to the appropriate law enforcement agency for destruction, storage or analysis

   a. The Scottsdale Healthcare Forensic Nurse Examiners are not responsible for the destruction of the sexual assault examination kit and/or any other evidence collected.
   b. In cases involving a mandatory report, law enforcement shall take custody of the sexual assault examination kit and any other evidence collected by the Forensic Nurses within 24 hours.
   c. In cases not involving a mandatory report, prior to the expiration period, the law enforcement agency may take custody of the sexual assault examination kit and any other evidence that is collected by the Forensic Nurses.
   d. At the end of the ninety (90) days, each law enforcement agency will be responsible for removing the sexual assault examination kit and any other evidence that is collected at the end of the 90-day storage period.
VIII. The Scottsdale Healthcare Forensic Nurse Examiners shall  
   a. Store the sexual assault examination kit, clothing, and toxicology samples in a refrigerator in a secure storage area located at the Scottsdale Family Advocacy Center.  
   b. Store clothing in sealed paper evidence bags.  
   c. As a minimum standard, store the evidence for ninety (90) days.  

IX. The Scottsdale Healthcare medical record number will be used as a reference to ensure that patients who choose to report the assault are able to have their evidence readily retrieved using the number they were provided by the Scottsdale Healthcare Forensic Nurse Examiners.  

X. The sexual assault examination kits and all evidence collected will be clearly marked as VAWA examinations.  

XI. The original Sexual Assault Examination Report will be kept indefinitely with all other forensic medical records by the Scottsdale Healthcare Forensic Nurse Examiners.  

XII. The Scottsdale Healthcare Forensic Nurse Examiners will bill the County Attorney’s Office and clearly mark each bill as a VAWA examination.
# NEW SEX CRIMES ATTORNEYS

<table>
<thead>
<tr>
<th>Mandatory Reading</th>
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<td>13-107</td>
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<td>13-705</td>
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<td>-State v. Gonzalez, 216 Ariz. 11 (App. 2007)</td>
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<td>13-902(E)</td>
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<td>Chapter 14</td>
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<td>-Pope v. Superior Court, 113 Ariz. 22 (1976)</td>
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<td>-State v. Oliver, 158 Ariz. 22 (1988)</td>
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<td>Chapter 35.1</td>
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<td>13-3620</td>
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<td>13-4066</td>
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<td>13-3623</td>
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<td>13-3821 et seq</td>
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<td>13-3961</td>
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<td>Rules 13.3(a) and 13.4(b), Ariz. R. Crim. Proc.</td>
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<td>-State v. Ives, 187 Ariz. 102 (1996)</td>
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<td>-Note to Rule 404(C) (in notebook)</td>
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<td>-State v. LeBrun, 222 Ariz. 183 (2009)</td>
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<td>Child Abuse Protocol (Intranet, Legal Reference, Protocols) –</td>
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<td>County Attorney Portion; Appendix 1.</td>
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<td>Child Sexual Abuse Accommodation Syndrome articles (2) by Roland Summit (see</td>
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<td>notebook)</td>
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<td>-State v. Lindsey, 149 Ariz. 472 (1986) (re: proper use of expert testimony)</td>
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- State v. Blasi (memorandum decision, see notebook)  
  State v. Salazar, 216 Ariz. 316 (App. 2007)  
  State v. King, 180 Ariz. 268 (1994) (re: impeaching feigned loss of memory)  

- State v. Morgan, 204 Ariz. 166 (App. 2002) (re: corpus)  
  Prosecution Policies & Procedures 7.1, 7.2, 7.3, and 7.8

### Mandatory Training

<table>
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<tr>
<td>8-Hour Basic Forensic Interviewing Course</td>
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<tr>
<td>8-Hour Basic Sex Crimes Investigation Course</td>
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<tr>
<td>Presenting Child Witnesses Presentation</td>
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<tr>
<td>Expert Testimony in Child Abuse Cases Presentation</td>
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<td>DNA Training</td>
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### Mandatory Activities

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<tr>
<td>Co-try a case with a senior attorney</td>
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<tr>
<td>Observe a senior attorney present expert testimony on victimology and the process of victimization.</td>
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<tr>
<td>Observe a senior attorney present expert testimony on DNA</td>
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<td>Work with a senior attorney to admit 404(C) evidence</td>
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<tr>
<td>Go on a guided tour of a children’s advocacy center</td>
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<tr>
<td>Go on a guided tour of the Phoenix Family Advocacy Center</td>
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Jurisdiction: San Diego, California

A. Introduction

The City of San Diego is located in San Diego County, California. The city, having an estimated population of 1,300,000, is the second-largest in California and the eighth-largest in the United States. San Diego County has a population of over 3,000,000 making it California’s second-largest. San Diego is home to 16 large military and naval installations, including Navy Base San Diego, Marine Corps Base Camp Pendleton, Marine Corps Air Station Miramar, and Naval Air Station North Island. Of the states, California has the largest concentration of military personnel. San Diego County has the largest concentration of military personnel in California (about 110,000). In addition, about 118,000 family members of military personnel live in the County. The combined total is about 8% of the County’s population. There are 3 public state universities in the County: University of California, San Diego, San Diego State University and California State University; and many private colleges and universities including the University of San Diego. In total, about 240,000 students are enrolled in colleges and universities throughout the county. According to FBI Crime statistics, San Diego had a forcible rape rate per 100,000 of 21.1.

B. Law Enforcement

The San Diego Police Department has a special unit that investigates adult sex crimes (defined as victims 14 and older at the time of the report). There are 12 detectives assigned to the unit, 11 of whom are full-time. The Police Department is a member of the San Diego County Regional SART Team, which includes other law enforcement agencies from the county, military, and universities.

1. Organization

Officers must have prior investigative experience before being assigned to the sex crimes unit. The detectives currently assigned had between 1 and 8 years of prior investigative experience before they applied to the unit. On average, a detective will work in law enforcement 10 to 15 years before being assigned to a special investigative unit investigating sex crimes. Officers are selected based on interest in the position, ability to work in a fast-paced environment, ability to handle a heavy case load, and experience working at crime scenes and with crime labs. The assignment is considered prestigious.

2. Investigation

Notification of a sexual assault to law enforcement triggers the County’s Sexual Assault Response Team (SART) process. It is often the case the victim delayed reporting for hours, days, or weeks. Law enforcement responds and takes an initial report. If the victim consents, a designated SART facility (hospital or clinic) will be notified before law enforcement arrives with
the victim. A SART nurse examiner and Rape Crisis Advocate are notified and respond. When the victim arrives, a forensic examination of the victim is initiated. At this point, the responding officer will notify an investigator in the sex crimes unit. If a detective is available, the detective will assume the case at that point. Otherwise, a limited interview is conducted and then the case is turned over to detectives (99% of reports were assigned a sex assault detective).

Victim advocate services are available to the victim at the time of the initial interview. These advocates are part of the SART team and work for a community based organization such as the Center for Community Solutions (CCS). Military advocates are also part of the SART team and could be called to respond if the victim is a military member and so desires.

Victims can ask that an advocate be present during interviews with police or detectives. While they can also ask that a family member or other support person be present, that is strongly discouraged, as it may make the victim uncomfortable when discussing certain details of the incident.

Victim interviews with law enforcement are audio recorded for accuracy. They are only audio recorded, as victim affect can be an issue at trial. Concern was that a victim can be in shock or have shut off emotions. However, a prosecutor review of the initial interview is extremely helpful and efficient for the process. It can also assist the detective to be able to go back and listen to what the victim actually said. Suspect interviews are video and audio recorded. Prosecutors expressed the opinion that, “Video is tremendous!” If the suspect is interviewed in the field, only an audio recording will be made. Detectives frequently use ‘pretext calls’ and find they can be powerful evidence.

If a suspect is identified and the victim wants to go forward, the case will always be submitted to the prosecutor for review. Prosecutors work with police throughout the investigative process. In many cases, a prosecutor will be assigned to work with the detective, to share thoughts or respond to questions regarding legal issues. However, it’s still the police department’s investigation.

California has a version of “restricted reporting.” In the past three years, it has become possible for a victim to get a forensic sexual assault and not report the incident to the police. The evidence from this exam is retained for 18 months.

By California law, a victim cannot be forced to testify. If the victim tells police during the investigation that they do not want to cooperate, the case will typically be closed by the police, and it will not be sent to the prosecutor for review. If a victim refuses to cooperate while the case is still being investigated, the case will usually be closed without referring it to the prosecutor.

Likewise, the prosecutor does not file charges in a sexual assault case without interviewing the victim. Generally, these interviews will take place with both the detective and victim
advocate present. The victim can refuse to testify but cannot force the prosecutor to close a case. While cases are victim driven, prosecutors will consider all the facts and circumstances where there is a known suspect, such as in serial cases where there is a danger to the community.

Investigators sit at counsel table during trial in sexual assault cases. It provides “an eye-opening experience” for newer investigators. It gives detectives training in how defense attorneys ask questions, how juries perceive information, and gives them insights regarding victim and witness testimony that enhances later investigations. It also assists prosecutors when cross-examining defense character witnesses and addresses last minute issues that arise during trial.

3. **Victim Advocate Services:**

San Diego Police Department has a Crisis Intervention Unit which can provide short term support and referral services to victims of sexual assault and other types of crime. These advocates work with advocates from the prosecutor’s office and the Center for Community Solutions, a local rape crisis center which is also part of the San Diego County SART. Police advocates do not have confidentiality that CCS or other community based advocates have.

C. **Prosecution**

1. **Organization**

The District Attorney’s Office is a member of the San Diego County SART team. SART is an interdisciplinary team that assists victims of sexual assault. In addition to law enforcement and prosecutor, SART components include Crisis Care and Advocacy, Forensic Medical Facilities, and Crime Laboratories. It also includes military investigators, prosecutors, medical personnel, and victim support personnel in San Diego County.

2. **Experience and Training**

New Deputy District Attorneys (DDAs) will begin in a misdemeanor unit and need at least four years of experience before they would be assigned to handle sexual assault cases. Every other year, DDAs in the Sex Crime/Stalking Division participate in a 3-day, formal in-house training program. DDA’s also train other members of the SART and attend other training opportunities as budget and time permit.

3. **Investigation**

Once law enforcement files the case, the District Attorney’s Office has its own investigator who can continue the investigation. These investigators are more experienced, typically having 10-15 years of training. In addition to investigation, they participate in support for the victim (often sitting in on DDA/victim meetings), victim and witness interviews, threat assessments,
and executing search and arrest warrants. All divisions, including the sexual assault units, have investigators employed by the District Attorney office assigned.

Detectives from the police department also conduct follow up investigation as needed.

A DDA is typically assigned to work with a detective while the case is being investigated. The DDA will interview the victim before filing a charge, with the detective and a victim advocate present. If the defendant is in custody, there will only be 48-72 hours to file charges, so the DDA will sometimes observe the law enforcement interview.

A supervisor will review the DDA’s decision to either charge the case or non-file the case. Sometimes a case will be “canceled” which means that while there is a known suspect, and the case has been reviewed by the DDA, the victim does not want to pursue charges. By California law, a victim cannot be forced to testify. There is a process to bring the victim to court and to tell the judge that the victim does not want to proceed with the case. However, while victim cooperation is a consideration, the refusal of a victim to cooperate cannot force the DDA to dismiss a charge.

In some cases the victim has committed some type of collateral misconduct, such as drug use or prostitution. The DA can grant immunity, but the victim is usually told that it makes the case against the defendant harder if there is a specific grant of immunity. There is more often a need for immunity when a suspect’s friend is involved in misconduct but they need him/her to testify. In most cases, the bigger concern in regard to collateral misconduct is that the victim lies to cover up drug use or other actions. Typically, that will make the victim less credible to juries where earlier lies were told.

At an interview with the victim, the DDA will go over California’s privacy rights, which include: the right to be named/use an alternate name (the victim can be called ‘Jane Doe’ for the media); the right to be present at every hearing, the right to be notified for every hearing, the right to sit in on a defense interview (many victims choose not to do a defense interview); ‘Marcy’s Rights,’ which are victim rights in the California constitution.

It is the Office of the District Attorney’s responsibility to ensure the victim is informed of her rights and that those rights are honored. A judge will make an inquiry at a motion hearing in appropriate cases. There are no penalties or enforcement mechanism, but the DA complies with victim’s rights. While victims have the right to use an alias instead of a true name during the process, prosecutors typically will encourage victims to use at least their first name, as it personalizes the victim for the jury in a way that being referred to as “Jane Doe” does not.

D. Victim Services

The District Attorney’s Office has victim advocates that work in many of the units, including the sexual assault unit. Their goal is to provide or arrange for services to meet the material,
emotional, and informational needs of victims and witnesses. These advocates complete mandatory Entry-Level and Advanced Legal Victim Advocate Training. Advocates must demonstrate an understanding of victim’s rights, dynamics of victimization, crisis intervention, cultural, ethnic and special needs assessments, and the Victim’s Compensation Program. They will accompany the victim to interviews with law enforcement and prosecutors, if the victim requests. They do not have the confidentiality rights that community victim advocates, such as those from the Center for Community Solutions have.

Victim advocates from the District Attorney’s Office work with victims who are cooperating on the case. Victims that do not wish to pursue criminal prosecution are typically assisted by advocates from the Center for Community Solutions (CCS).

Before a case is filed, the prosecutor meets with the victim and advocate to go through rights, discusses naming them within the complaint, explains benefits, and the process. “Part of a successful case is building a relationship with the victim. So when things go bad, they trust you.”

CCS advocates support victims by providing a number of services for crime victims, including victims of sexual assault. These services include a 24-hour hotline that provides immediate and confidential phone counseling, counseling services, accompaniment for victims at law enforcement interviews, court dates and sentencing hearings. CCS advocates also provide support and information for victims who are undergoing forensic exams and assist victims make informed choices throughout the process. Advocates support the sexual assault victim during the medical-investigative examination, during follow-up care and during legal and judicial meetings and proceedings.

Statements made to advocates from CCS are protected, unlike communications made to system-based victim advocates.

Victim advocates from CCS typically have a 4-year degree in a social services or criminal justice related field. They undergo a 5 week training period, which includes both training and shadowing other advocates. Completion of the training is required for confidentiality to apply and is required before serving as a victim advocate.

Volunteers are also used by both the District Attorney Office and CCS to support victim advocate services.

E. Victim Legal Counsel

There are some victim services agencies that provide legal services, typically for civil issues such as Landlord-Tenant, immigration and contract. There have been one or two instances in which a victim’s attorney entered a notice of appearance on the criminal case. It has happened
so infrequently at this point that prosecutors are unable to identify any positive or negative ramifications.

F. Criminal Procedure

1. Charging Decision

The standard the prosecutor uses to determine whether to charge is whether there is a ‘likelihood that the State can prove the case beyond a reasonable doubt’ to the jury. “It’s not what we believe it is what we can prove.” They also believe it is an ethical duty of the prosecutor not to take a case where they cannot prove the charge beyond a reasonable doubt to a jury. A supervisor reviews all charging decisions made by a prosecutor.

San Diego prosecutors recognize a difficult dynamic in sex cases and noted that “juries are harder on sex crimes victims.” While 70% of felony referrals get charged, only about 47% of the referrals for sex cases are charged. The DDAs interviewed noted that even though they believe their jurisdiction has the best investigators in the country and the Sex Crimes/Stalking Division is quite forward leaning, only a very small percentage of sex assault cases ‘see the inside of a courtroom.’ One difficulty discussed was the number of cases that are alcohol facilitated sex crimes with little or no corroboration and that sexual assault defendants typically have fewer prior convictions than other defendants. Prosecutors noted that nationally, criminal charges are filed in only nine or 10 percent of sexual assault allegations reported.

Prosecutors look for corroborating evidence to support victim testimony. They engage in a round table discussion with investigators and other prosecutors to discuss difficult cases.

When a prosecutor believes the victim, but doesn’t think the case can be proven, there will typically be a face-to-face meeting with the victim and victim advocate to discuss the decision not to charge.

2. Preliminary Hearings

It is rare to use the grand jury process in San Diego County. Instead, after charging, there is a Preliminary Hearing, which is held 60 days after arraignment, when a defendant is in custody. The detective is called to testify at these hearings. While prosecutors are not required to put on testimony from the victim, most prosecutors will do so. Victims will be cross examined by defense counsel, although the judges often put some limits on cross-examination at the preliminary hearings. This hearing is often looked at as a preparation session for the victim and often creates a better potential for settlement. While the rule is that trial shall be held within 60 days of the preliminary hearing, as a practical matter cases actually do not conclude until 15 months to 2 years after the preliminary hearing.
3. **Pleas**

Plea negotiations can be facilitated by the parties going before the judge to negotiate. Typically, the prosecutor will make the offer where the sentence is less than ‘life top,’ (not a maximum life sentence), but will let the defense make the first offer in those cases. There is also a process for the defendant to ‘plead to the sheet,’ which means that the defendant pleads without the protection of a plea agreement.

Typically, the Chief or Assistant Chief of the Sex Crimes/Stalking Division will officially make or approve plea offers/agreements.

Prosecutors discuss plea offers with the victim. There is more to the discussion than just whether to go to trial. The prosecutor tries to figure out what will help the victim get closure, as many victims are ambivalent about an appropriate sentence, and often the courtroom experience doesn’t resolve the victim’s feelings. The victim advocate will spend a lot of time with the victim talking about what the victim wants. The detective is generally included in this discussion to show the victim that they are all part of the team.

Round tables discussions can also help to facilitate discussions that not going to trial was the best decisions from all perspectives. It can also be useful in cases going to trial, to help determine whether there is corroborative evidence that could enhance the likelihood of conviction at trial.

4. **Alternative Disposition**

California does not have alternatives to prison for forcible rape, but defendants will be given conditions of release after completion of their term. Prisons are underfunded, which means offenders who have committed less serious offenses will be released early. They will generally be released with supervision that requires the offender to follow guidelines, including treatment and no contact with certain groups of individuals.

5. **Sentencing**

California sentences in ranges and a judge can sentence a defendant from the lower, middle or high end of the range. For very serious offenses (class A felonies), the sentence will be somewhere between 15 years to life to 25 years to life, and there are additional rules if the crime is ‘forcible.’ In those cases, the defendant does not get a percentage of time off for good behavior. Instead, they will serve whatever period the judge imposed, then be released on supervision. If they commit a violation, they can be sent back to prison. For those cases with a maximum sentence of less than life, the defendant will be placed on parole and can be returned to prison for violating parole.
Offenders who are sentenced to less than a life sentence can also be evaluated and declared a sexually deviant offender, which will result in being required to follow certain living arrangements or treatment conditions for the lifetime of the offender.

Victims are permitted to give a victim impact statement at sentencing without being cross examined. This statement provides closure to the victim without risk of cross examination.

6. Measures of success

Success cannot be measured solely by convictions. One measure of success is having more people who are comfortable enough to want to report sexual assaults. One way to make victims more comfortable with the system is to make victim advocates become more comfortable with the process and the system.

Having victims visit the courtroom and maybe answer a few simple questions to get comfortable with the process can help ensure success at trial.

The need to ensure that the right people are in the job; victims want advocates and detectives to support them who are knowledgeable about the system and their own jobs. Both the advocates and prosecutors need to have the appropriate personality, and that is not a personality that makes the professional appear as a “just the facts, ma’am” person.

G. Community Outreach

P.R.I.C.E., Preventing Rape By Intoxication Through Community Outreach is the collaborative effort of the San Diego District Attorney’s Office, the San Diego County Sheriff’s Department, the San Diego Police Department, colleges and universities, the military, the Center for Community Solutions/Rape Trauma Center and the Sexual Assault Response Team, and other community partners to prevent the growing trend of rape by intoxication, particularly among those aged 18-25. P.R.I.C.E. educates young adults and teens about the dangers of placing themselves in sexually vulnerable situations after ingesting drugs or alcohol. P.R.I.C.E. has created messages in various mediums designed to alter behaviors and perceptions about the crime of rape by intoxication. Unfortunately, there is not enough funding to keep the program active at this time.

H. Best Practices

1. Programs such as the P.R.I.C.E. outreach program is designed to address what San Diego and other authorities see as a growing problem of alcohol use and abuse, especially in the 18-25 age group. As this age group is a significant demographic in all of the branches of the armed forces, a program like P.R.I.C.E. should be considered, either in partnership with jurisdictions that contain a significant number of military personnel or run solely by the military services.
2. Among the jurisdictions visited, San Diego had a particularly sophisticated process for integrating victim services via the SART process. This integrated system is generally able to meet the various needs of a victim while keeping the criminal case on track.

3. Because of the large number of military personnel stationed within San Diego County and the familiarity officials have with the military, this jurisdiction should be included in any testing or evaluation of new or model programs, procedures or protocols designed by the military to improve sexual assault response, services and/or prosecution.

4. Selection of personnel - investigators, prosecutors, and victim advocates are crucial to success and to making a victim feel protected.

5. Formation of SART/Multidisciplinary teams to support the reporting, investigation and prosecution of sexual assault offenses as well as support for victims of these crimes has been recognized as crucial in San Diego since the early 1990’s. Written, updated and current protocols and standards for service providers are critical to ensuring that that the process remains active and relevant, and provides “best practices” by those providing and utilizing services in the covered geographical and service areas. As an example, the San Diego SART standards of practice are available at: http://www.sandiego.gov/police/pdf/standards.pdf.
### Campus Police Departments

<table>
<thead>
<tr>
<th>Institution</th>
<th>Phone Number</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSU San Marcos</td>
<td>(760) 750-4567</td>
<td>441 La Morie Rd., San Marcos, CA 92078</td>
</tr>
<tr>
<td>Grossmont-Cuyamaca CC</td>
<td>(619) 644-7654</td>
<td>8800 Grossmont College Dr., El Cajon, CA 92020</td>
</tr>
<tr>
<td>Mira Costa College</td>
<td>(760) 795-6640</td>
<td>1 Barnard Drive, Oceanside, CA 92056</td>
</tr>
<tr>
<td>Palomar Community College</td>
<td>(760) 744-1150</td>
<td>1140 W. Mission Rd., San Marcos, CA 92069</td>
</tr>
<tr>
<td>San Diego Community College</td>
<td>(619) 388-6411</td>
<td>1516 Frazier Rd., San Diego, CA 92108</td>
</tr>
<tr>
<td>San Diego State University</td>
<td>(619) 594-1991</td>
<td>5500 Campanile Dr., San Diego, CA 92182</td>
</tr>
<tr>
<td>San Diego Unified Schools</td>
<td>(619) 291-7678</td>
<td>4100 Normal St., San Diego, CA 92103</td>
</tr>
<tr>
<td>UCSD</td>
<td>(858) 534-4357</td>
<td>9500 Gilman Dr., La Jolla, CA 92039</td>
</tr>
<tr>
<td>University of San Diego</td>
<td>(619) 260-7777</td>
<td>5998 Alcala Park, San Diego, CA 92110</td>
</tr>
<tr>
<td>San Diego Harbor Police</td>
<td>(619) 686-6272</td>
<td>3380 North Harbor Dr., San Diego, CA 92101</td>
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### City Police Departments

<table>
<thead>
<tr>
<th>City</th>
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<th>Address</th>
</tr>
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<tbody>
<tr>
<td>Carlsbad</td>
<td>(760) 931-2197</td>
<td>2560 Oran Way, Carlsbad, CA 92010</td>
</tr>
<tr>
<td>Chula Vista</td>
<td>(619) 691-5137</td>
<td>315 4th Ave., Chula Vista, CA 91910</td>
</tr>
<tr>
<td>Coronado</td>
<td>(619) 522-7366</td>
<td>700 Orange Ave., Coronado, CA 92118</td>
</tr>
<tr>
<td>El Cajon</td>
<td>(619) 579-3311</td>
<td>100 Fletcher Pkwy., El Cajon, CA 92020</td>
</tr>
<tr>
<td>Escondido</td>
<td>(760) 839-4722</td>
<td>700 W. Grand Ave., Escondido, CA 92025</td>
</tr>
<tr>
<td>La Mesa</td>
<td>(619) 667-1400</td>
<td>8181 Allison Ave., La Mesa, CA 91941</td>
</tr>
<tr>
<td>National City</td>
<td>(619) 336-4411</td>
<td>1200 National City Blvd., National City, CA 91950</td>
</tr>
<tr>
<td>Oceanside</td>
<td>(760) 435-4900</td>
<td>3855 Mission Ave., Oceanside, CA 92054</td>
</tr>
<tr>
<td>San Diego</td>
<td>(619) 531-2000</td>
<td>1401 Broadway, San Diego, CA 92101</td>
</tr>
</tbody>
</table>

### San Diego County Sheriff's Department

<table>
<thead>
<tr>
<th>Phone Number</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>(858) 565-5200</td>
<td>9621 Ridgehaven Dr., San Diego, CA 92123</td>
</tr>
<tr>
<td>(619) 615-2700</td>
<td>San Diego County Jail Information</td>
</tr>
</tbody>
</table>

### San Diego City Attorney's Office

<table>
<thead>
<tr>
<th>Phone Number</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>(619) 533-5500</td>
<td>Misdemeanor crimes within city limits</td>
</tr>
<tr>
<td>(619) 533-6095</td>
<td>Domestic Violence Crimes</td>
</tr>
</tbody>
</table>

### District Attorney Office Locations

For adult case information, please log onto our Web site: [www.sandiegoda.com](http://www.sandiegoda.com) or contact one of the District Attorney’s offices.

- **San Diego – Hall of Justice**
  - 330 W. Broadway, San Diego, CA 92101
  - (619) 531-4040

- **North County Branch – Vista Courthouse**
  - 325 S. Melrose Dr., Ste. 5000, Vista, CA 92083
  - (760) 806-4140

- **East County Branch – El Cajon Courthouse**
  - 250 Main St., 5th Floor, El Cajon, CA 92020
  - (619) 441-4588

- **South Bay Branch**
  - 333 H St., Ste. 4000, Chula Vista, CA 91910
  - (619) 496-5650

#### Victim Assistance Program

- (877) 433-9069 toll-free

For juvenile case information, you must appear in person with valid identification at:

- **Juvenile Division – Juvenile Courthouse**
  - 2851 Meadow Lark Dr., San Diego, CA 92123
  - or contact:
    - Juvenile Probation
    - 2901 Meadow Lark Dr., San Diego, CA 92123
    - (858) 694-4600

[www.sandiegoda.com](http://www.sandiegoda.com)
Victims’ Bill of Rights – “Marsy’s Law”

California Constitution, Article I, Section 28(b)
Penal Code Section 679.026

In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following rights:

1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.
3. To have the safety of the victim and the victim’s family considered in fixing the amount of bail and release conditions for the defendant.
4. To prevent the disclosure of confidential information or records to the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim’s family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
5. To refuse an interview, deposition, or discovery request by the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
8. To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim’s family and any sentencing recommendations before the sentencing of the defendant.
11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
13. To restitution. (A) It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer. (B) Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.
14. To the prompt return of property when no longer needed as evidence. (C) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.
15. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
16. To have the safety of the victim, the victim’s family, and the general public considered before any parole or other post-judgment release decision is made.
17. To be informed of the rights enumerated in paragraphs (1) through (16).
A. Introduction

Kent County is located in central Delaware. Dover is the most populous city at 36,000 and is the capital of Delaware. Kent County’s population is around 164,000. There are some small colleges within the jurisdiction, but the prosecution office doesn’t handle many cases from these colleges. It is also home to Dover AFB, but again very few cases are handled by the Kent County Prosecutor from Dover AFB. According to the 2011 FBI Crime Statistics, Dover Metropolitan Statistical Area had 51.8 forcible rapes reported per 100,000 inhabitants.

B. Law Enforcement

1. Organization

The Dover Police Department does not have a specialized sexual assault unit. They do however have one detective who typically handles sexual assault and has specialized training in interviewing and addressing the needs of sexual assault victims. Most detectives in the state police are very senior. They all have at least 10 years of experience.

2. Investigation

Most sexual assault complaints come through police (even if initially referred to prosecutor or hospital they are sent through police first). An officer is called out and the sexual assault detective is alerted.

All suspect interviews are videotaped. Victim interviews are also videotaped. Videotaping the victim interview is helpful in a number of ways: it limits the occasions wherein the victim has to relive and describe the incident while providing the prosecutors with the needed facts to adjudicate the case; it limits inconsistencies and other “Brady” information from being created; and also allows the victim to review their complete statement during trial prep to ensure accuracy and recall pertinent details without unintentionally creating inconsistencies that sometimes occur with the passage of time. The Dover police department has a special room set up with recording equipment that is used both for victim and suspect interviews. Prosecutors are not generally present at the interviews but can suggest questions or issues for the detective to discuss.

Investigators in the jurisdiction sit at counsel table during the trial. Prosecutors believe this helps in the prosecution on many different fronts. First, the investigator is extremely knowledgeable about the witnesses, evidence, and prior statements made during the investigation and can help in securing the evidence if needed. Prosecutors also stressed how sitting through a trial at counsel table makes the investigators better investigators. After the experience they show more ownership in the case and can better anticipate what issues might arise during a criminal trial.
Typically, police and prosecutors will advise victims who may have committed minor collateral misconduct such as underage drinking or drug use that they are focused on the sexual assault and not the minor collateral misconduct. The focus is more on the credibility of the victim at trial, not the minor misconduct.

C. Prosecution

1. Organization

There are approximately 16 prosecutors in Kent County Prosecutors office. They are divided into different units that specialize in certain areas (Sex Crimes, Drugs, Property, Homicide). There are two attorneys and a social worker dedicated to the Sex Crimes Unit. Prosecutors within the office rotate between units typically every three to four years.

2. Experience and Training

Prosecutors tend to begin in the office trying juvenile cases where they gain experience with law, procedure, etc. in a non-jury trial setting. After two years they are likely to move to the Court of Common Pleas where they try misdemeanor offenses such as DUI’s or assaults in front of juries. After that they are generally assigned to a felony unit. The office would never place a new attorney into the Sex Crimes Unit. The lead Sex Crimes Unit prosecutor has 15 years’ experience as a prosecutor, while the other prosecutor has 5 years experience. The office will send the lead prosecutor to trainings if time allows, however the office feels the best training for young prosecutors is to get them into court.

3. Investigation

Prosecutors review all incoming cases during the intake process. If the prosecutor believes additional information should be in the report, the prosecutor will return the case to the police to conduct the follow up investigation. The police have a victim advocate who works with the victim up until the time the case is referred to the prosecutor. The prosecutor’s office does not have its own investigators.

Prosecutors will initially meet the victim with the victim advocate (called a social worker). This meeting is not to talk about the case, but used to introduce themselves and explain the process. The prosecutor is able to use the videotaped statement to understand what the victim reported and later to prepare for the full interview closer to trial. At that time, the prosecutor will interview the victim, to go over the facts of the incident. Victims are also shown the courtroom in preparation for trial.
D. Victim Services

In 1992, a Victim’s Bill of Rights was passed. It mandated notifications for victims, truth in sentencing guidelines, as well as services and assistance, such as the Victims Compensation Assistance Program.

The office employs Social Workers who act as victim advocates. The social workers have a Master’s degree and typically have prior experience in law enforcement. There is one social worker assigned to unit that prosecutes sexual assaults. They are also sent to training seminars when available.

The Social Worker victim advocates are “crucial” to the office and are tasked with all contact with the victim, keeping them informed of the proceedings, as well as managing all of the other services the victim may be authorized to receive (this has included compensation, subsidized housing, etc.) They work as part of the prosecution team, and the social worker becomes involved in the case simultaneously with the prosecutor. The social worker immediately contacts the victim so that the prosecutor can meet with them. The social worker is present at each meeting the prosecutor has with the victim, keeps the victim informed of the case progress and will sit with the victim during court hearings and trial.

Social workers also refer victims to community programs and work closely with victims whose cases have been referred to the prosecution, even if there is not enough evidence to go forward with the case. This is crucial because prosecutors need to be responsible for victims, even if there is not enough evidence to prosecute.

The office believes the prosecution need to represent the victim, yet as a prosecutor they may at times need to do things for the benefit of the judge or accused but all within the purview of saving a prosecution, not advocating for others.

E. Victim Legal Counsel

Delaware has not experienced “Victim Legal Counsel,” where lawyers represent the victims in the criminal case. The few instances where victims have been represented by attorneys for other purposes (civil lawsuit, etc) those attorneys tend to stay out of the prosecution. The prosecutors feel it is their responsibility to protect the rights of the victim. They expressed skepticism of having victim attorneys involved in the criminal process and were uncomfortable with the idea that there would be another attorney involved that could potentially interfere in the relationship between the victim and prosecutor.
F. **Criminal Procedure**

1. **Charging Decision**

   The office does not have written charging standards or criteria. The prosecution makes a charging decision based on the evidence. Though likelihood of success plays a factor, because they must always act ethically, it is the evidence that pushes the charging decision. If they must decline to prosecute they ensure the victim understands that it is about evidence and without evidence they are not allowed to go forward.

   Prosecutors have authority to dismiss a case or go forward with the case. The lead Sex Crimes Unit prosecutor reviews and discusses the other attorney’s decisions regarding charging or declining to file charges in cases. However, each prosecutor has responsibility for his or her own cases. This responsibility to go forward, not go forward, plead, etc. ensures the prosecutor is fully committed to a prosecution and victim.

   If a case is not prosecuted, a declination memo is written to explain the reason for not filing charges. Cases are declined when there is not sufficient evidence to prove the charge. Police are also able to determine when something is not prosecutable and discuss these cases with the prosecutor prior to closing a case without referring charges or making an arrest.

2. **Preliminary Hearings**

   The criminal trial process in Delaware moves fairly quickly. There is a Grand Jury hearing, but the victim does not testify at that hearing. However, there are preliminary hearings where the victim testifies. “Good” defense counsel will cross examine at this hearing.

   There is an Initial Case Review hearing, usually held less than three weeks after arraignment. At that hearing, discovery is provided to the defense and defense attorneys are advised of recorded interviews or other electronic evidence that may be viewed at the prosecutor’s office. The victim is advised of the hearing and may attend. Because defense attorneys, judges and prosecutors are present, guilty pleas may be entered at these hearings.

3. **Pleas**

   In most cases, plea offers are made at the discretion of the prosecutor, generally with the approval of a supervisor. Some plea offers, in very serious cases, must be approved by the State Prosecutor before they can be made.

   Plea negotiations happen informally and they can begin right away or occur on the eve of trial. Both prosecution and defense make initial offers. They are in writing. Victims are apprised of the offer and the reasons for making the offer. While victim approval is not necessary to make the offer, the victim will usually be “on board” by the time the plea occurs. While victims may not like certain plea offers, there is an effort made to ensure that they
understand why a certain plea offer is being made prior to the plea occurring. Suspects must admit guilt, or in some cases, a “nolo contender” plea may be entered as part of the plea agreement.

Typically a plea offer will involve a reduction in the number of counts or a reduction in the seriousness of the offense to which the defendant enters a guilty plea. If a plea agreement is made, there is no formal requirement for the victim to have a say. However, they are talked to and with the help of social worker explained how the plea is good for the process.

4. Alternative Disposition

Alternative dispositions are not typically used in sexual assault cases. There are treatment options available but are typically handled through corrections. They are not necessarily done by offense type.

5. Sentencing

Sentencing is handled by a judge in Delaware, except on death penalty cases. A pre-sentencing investigation and report is prepared in serious cases prior to sentencing. In addition, the prosecutor will prepare a sentencing memo. The sentencing proceeding occurs a month to six weeks after the conviction. There are sentencing guidelines, but it is not mandatory that the judge sentence within the guidelines. Truth in sentencing guidelines have affected the way parole is used and when it can be used. The state also has a Board of Pardons and the Governor has the ability to grant pardons.

G. Limited Statistics

From June 1, 2012 through May 2013, there were 94 arrests for sexual assault related charges. Approximately 90% of those cases are adult defendants with child victims. Only about 10% of the cases are adult defendants and adult victims. There are an additional 25 cases a year where the police have determined that it is not a prosecutable case. Their estimate is a declination of approximately 25 cases a year. Approximately 95% of these cases are resolved by a plea. The office normally only has between 4-6 trials a year for sex crimes.

H. Best Practices

1. Victim Advocates who have degrees in “helping professions” are invaluable as in-house victim advocates to educate and support victims through the criminal justice and trial process.

2. Prosecutors need to maintain responsibility for their case and to maintain a relationship and trust with the victim.
ARRAIGNMENT
A court hearing where charges are read to the defendant and he/she enters a plea of guilty, not guilty, or no contest. This public hearing is held in the court that will later hear the trial. Victims are not required to attend this hearing.

BAIL REVIEW HEARING
A court hearing to determine if bail should be reduced, should stay the same, or should be increased. This hearing is open to the public. No plea will be taken at a bail review. Victims are not required to attend this hearing. Hearings are scheduled only after the court receives a bail review motion from the defendant.

CASE REVIEW
A court hearing where the prosecutor and defense attorney discuss the case. The defendant may plead guilty at this time.

PRELIMINARY HEARING
A court hearing to determine whether there is enough evidence against the defendant to proceed to trial. This hearing is open to the public. Victims are not required to attend unless they receive a subpoena. (See glossary for definition)

SENTENCING HEARING
A court hearing at which convicted defendants are sentenced for their crimes. Victims may choose to make written or oral statements at this hearing.

TRIAL
A court hearing where the prosecution calls witnesses and introduces evidence to try to prove that the defendant is guilty of the crime with which he/she is charged. The defendant has the right to introduce evidence of his/her innocence and to have witnesses testify on his/her behalf. A jury or judge will determine whether or not the defendant is guilty beyond a reasonable doubt.

PROTECTION FROM ABUSE ORDERS (PFA)
A court order that offers protection for the following domestic violence victims:
- Married couples
- Divorced couples
- Married but separated couples
- Men & women living together with or without children in the household.

If you fall into one of these categories and are the victim of domestic violence, call the Attorney General’s Victim/Witness Services Unit for more information. If you are in immediate danger, dial 911.

NO CONTACT ORDERS
A no-contact order requires that the defendant have no contact with the victim or victims in a case. This includes contact in-person, by telephone or mail, or arranging for other people to make contact with the victim on the defendant’s behalf. When no-contact orders are issued, a copy of that order and a victim letter are provided to the victim by the Attorney General’s office. If you observe a violation of any court order, call 911 and show the copy of the order and the Attorney General’s victim letter to the responding police officer.

Delaware’s Victim’s Bill of Rights entitles victims to be notified of and to participate in the criminal justice process. It requires that they be notified of the following:
- When a defendant is released on bail, the amount of bail, and any conditions of bail
- Court events, possible plea agreements, outcome of the case, projected prison release dates, and any sentence modification
- If a conviction is reversed on appeal
- Parole and Pardon Board hearing dates
- Proceedings to follow if the offender threatens or intimidates them
- If the offender escapes from a correctional facility

Note: if the police recovers your stolen property they will keep it as evidence until after the trial.

VIOLENT CRIMES COMPENSATION BOARD
Delaware’s Violent Crimes Compensation Board can assist innocent victims of violent crime who suffer personal injury (bodily harm or extreme mental suffering). It may provide limited compensation for property loss or damage. To obtain an application for financial assistance please contact the Board at (302) 995-8383. You must file an application within one (1) year of the crime.

Learn more about victim services provided by the Attorney General’s office by visiting: http://www.attorneygeneral.delaware.gov/crime/crimeprevent.shtml

Learn more about court proceedings by visiting: http://courts.delaware.gov

Appendix F-1 - JSC-SAS Jurisdictional Documentation - Delaware
GLOSSARY

TYPES OF BAIL
Money or another type of security the Court requires the defendant to pay to ensure that he/she attends all required Court hearings. Bail can be set in several forms:

- **SECURED**
  Money or property the defendant signs over to the Court to cover the amount of bail set by the Judge. This money or property may be forfeited if the defendant fails to appear in Court as required.

- **UNSECURED**
  Money or property that does not have to be signed over to the Court by the defendant. If the defendant fails to appear for Court, the unsecured bail amount will be owed to the court by the defendant.

- **CASH SECURED**
  Cash bail means that only cash or a money order can be posted. No property will be accepted.

- **UNSECURED WITH CO-SIGNER**
  A second person, usually a family member of the defendant, is required to sign the defendant’s bond along with the defendant. If the defendant fails to appear for Court, the co-signer is then responsible for the amount of bailed owed to the Court.

- **10%**
  In some cases the judge will permit the defendant to post 10% of the amount of the original bail is cash or property.

- **RELEASE ON OWN RECOGNIZANCE**
  The defendant is allowed to sign himself/herself out of custody. Although no money or property is at stake, if the defendant fails to appear for his Court, a capias can be issued for his or her arrest.

- **RELEASE TO PARENTS/GUARDIAN**
  Juvenile defendants may be released to the custody of his or her parents.

- **RELEASE TO HOME CONFINEMENT**

VICTIM SERVICE ORGANIZATIONS

- **Prevent Child Abuse Delaware**
  Statewide: (302) 425-7490 or 1-866-925-7223

- **Rape Crisis/Contact**
  New Castle County: (302) 761-9100
  Kent & Sussex Counties: 1-800-262-9800

- **Survivors of Accident and Murder**
  New Castle County: (302) 654-6833
  Kent & Sussex Counties: 1-800-287-6423

- **People’s Place**
  Sussex County: (302) 422-8033
  Child Inc.
  New Castle County: (302) 762-8989

- **Domestic Violence Hotline**
  New Castle County: (302) 762-6110
  Kent & Sussex Counties: (302) 422-8058
  Número para asistencia: 1-800-262-9800

- **Delaware Council on Crime & Justice/Elderly Crime Victim Program**
  New Castle County: (302) 658-7174
  DE Legal Helplink
  Statewide: 1-800-773-0606

- **Families in Transition**
  Kent & Sussex Counties: (302) 422-8058
  North Kent County: (302) 678-3886
  MADD (Mothers Against Drunk Driving)
  Statewide: 1-800-630-6233

- **Violent Crimes Compensation Board**
  This money is made available as compensation to victims of violent crime.

- **GOVERNMENT RESOURCES**
  **Adult Protective Services**
  (Department of Health and Social Services)
  1-800-223-9074

  **Victim Notification System (VINE Program)**
  1-877-338-8463

  **Division of Family Services**
  (Child Protective Services)
  1-800-292-9582 (statewide report line)

  **Violent Crimes Compensation Board**
  (302) 995-8383

  **U.S. Attorney’s Office Victim/Witness Program**
  (Federal cases) (302) 573-6277

  **Board of Pardons**
  (302) 739-4111

CONTACT INFORMATION

- **ATTORNEY GENERAL’S OFFICE**
  Victim/Witness Services Unit
  New Castle County: (302) 577-8500
  Kent County: (302) 739-4211
  Sussex County: (302) 856-5353
  Toll Free: 1-800-870-1790

- **POWERS OF THE EXECUTIVE OFFICE**
  Delaware State Police Victim Center
  New Castle County: (302) 577-8500
  Kent & Sussex Counties: 1-800-262-9800

- **POLICE AGENCY VICTIM SERVICES**
  Dover Police Victim Services Program
  (302) 736-7134

  Georgetown Police Victim Services
  (302) 856-6613

  New Castle County Police Victims Program
  (302) 395-8135
  (Número para asistencia) (302) 395-8117

  Newark Police Victims Program
  (302) 360-7110

  Wilmington Police Victims Program
  (Major Crimes) (302) 576-3622
  (Domestic Violence) (302) 576-3640
  (Número para asistencia) (302) 576-3665

- **SUPERIOR COURT**
  Justice of the Peace Court Case Notification
  New Castle County: (302) 577-8500
  Kent & Sussex Counties: 1-800-870-1790

  **Superior Court Case Notification**
  New Castle County: (302) 739-4211
  Kent County: (302) 739-3533
  Sussex County: (302) 856-5353

  **Superior Court Case Scheduling**
  New Castle County: (302) 255-0730
  Kent County: (302) 739-3533
  Sussex County: (302) 856-5325

  **Superior Court Pre-Sentence Office**
  New Castle County: (302) 255-0590
  Kent County: (302) 739-5275
  Sussex County: (302) 856-5549

Appendix F-1 - JSC-SAS Jurisdictional Documentation - Delaware
Jurisdiction: U.S. Attorney’s Office for the District of Columbia

A. Introduction

The United States Attorney’s Office for the District of Columbia is unique among U.S. Attorney’s Offices in the size and scope of its work. It serves as both the local and the federal prosecutor for the nation’s capital. On the local side, these prosecutions extend from misdemeanor drug possession cases to murders. On the federal side, these prosecutions extend from child pornography, to gangs, to financial fraud, to terrorism.

The District of Columbia has a population of about 650,000. A number of large colleges and universities are located in the District, including Georgetown University, George Washington University, American University, Catholic University, and Howard University. Undergraduate enrollment at these universities alone is greater than 35,000. A large number of military offices and installations are located in and immediately around the District.

There are 352 Assistant United States Attorney’s handling criminal cases and another 25 handling civil cases. According to the FBI crime statistics there are 27.7 forcible rapes per 100,000 inhabitants.

B. Law Enforcement

1. Organization

The Metropolitan Police Department’s (MPD) Sex Assault Unit in the Violent Crimes Branch investigates sexual assaults involving victims ages 18 and older. The unit is supervised by a lieutenant and 2 sergeants. Members of the unit are specially trained in the investigation of sexual assault.

The Sex Assault Unit is part of the Sexual Assault Response Team (SART) which is also comprised of the United States Attorney’s Sex Offense and Domestic Violence Section, the DC Rape Crisis Center, the US Park Police, and the Washington Hospital Center Sexual Assault Nurse Examiners (SANE) Program.

The MPD also has a Victim Witness Unit within the Victim Services Branch. Personnel in this unit provide support, information and referrals to victims and survivors of sexual assault and domestic violence.

2. Investigation

Typically, a dispatcher will receive a call and a police officer is sent to the location of the reported incident. The officer will contact the Sex Assaults Unit once an incident involving sexual assault has been reported. The investigation is transferred to a Sex Assaults Unit.
detective when that officer arrives on the scene. The detective will conduct a more detailed interview of the victim. The detective will also contact the Forensic Science Division to respond to the scene to collect evidence. If necessary, the detective will arrange for the victim to be taken to the hospital for a forensic exam.

Investigators in the unit will consult with a prosecutor while investigating sex assault cases. They can close cases without a referral to prosecutors.

A victim specialist with the MPD’s Victim Services Unit works with Sex Assaults Unit detectives during the investigation, providing information, support and referrals to victims of sexual assault and their families during the investigation. The victim specialist also assists victims with the completion of the application for the Crime Victim Compensation Program.

Law enforcement tapes child interviews, but not adult interviews. The lead detective on the case will sit at counsel table for jury trials prosecuted by the US Attorney’s Office.

C. Prosecutors

1. Organization

The District of Columbia Office is unique in that it is also responsible for the prosecution of most local (non-federal) crimes occurring within the District. Prosecution of these crimes is handled primarily within the Office’s Superior Court Division. The Division is divided into 4 different sections, including the Sex Offense and Domestic Violence Section. This section is responsible for the prosecution of all misdemeanors and felony cases that involve sexual abuse (including all cases involving adult rape and child molestation), child physical abuse, and domestic violence.

The section is staffed with 3 supervisors (a Chief and two Deputy Chiefs) and a range of prosecutors who handle misdemeanor, mid-level felony and the most serious felony cases. All cases assigned to the Section are prosecuted vertically, meaning one prosecutor is responsible for the case from initial interview of the victim, through the investigation and charging process, to trial, or other disposition. The section is supported by Victim-Witness Assistance advocates and a child interview specialist who have expertise in the areas of domestic violence, child abuse, and sexual assault.

Members of the section work closely with other community organizations and agencies on issues related to domestic violence, sexual abuse, and crimes against children.

2. Experience and Training

Prior to being assigned to felony sex offenses, new attorneys start with misdemeanors or appeals. They will likely have about 4 years of experience before prosecuting felony 1 cases,
which are the most serious felony cases. Attorneys always second-chair sex offenses before trying them alone.

Prosecutors complete U.S. Attorney training protocols required for all U.S. Attorneys. Prosecutors also conduct training, formal and informal, for police.

3. Treatment of Victim’s Misconduct

The US Attorney’s Office addresses each case individually. In some cases a victim is prosecuted for collateral misconduct but another prosecutor is assigned. The prosecutor handling the sexual assault case will not discuss the victim’s misconduct with them. The misconduct is disclosed to defense counsel.

D. Victim Services

1. Services

The Victim Witness Assistance Unit provides assistance to victims and witnesses of serious crime while they are involved with the criminal justice system. Unit staff will also help victims understand how the criminal justice system works and assist with restitution and services. The unit has a staff of 26, 17 of whom are victim advocates. The victim advocates, for the most part, are licensed social workers. The unit becomes involved with the case and victims when the case is charged (the US Attorney’s Office otherwise does not have jurisdiction). Services that the unit calls Crisis Intervention Services are provided: referrals to human services, medical, and other assistance agencies; accompaniment to court; special services for child, elderly, and handicapped victims; information on court proceedings and case status; language interpretation services, Crime Victims Compensation claim assistance; assistance with victim impact statements; and assistance with travel and lodging for out of area witnesses.

In addition to those services provided by the Victim Witness Assistance Unit, several law enforcement agencies support victims. For example, the FBI has advocates who are assigned as soon as the FBI responds to a crime scene. Advocacy services are normally provided until indictment, but it is possible that the advocate could stay on the case longer. As discussed above, the MPD also has victim advocates who work with victims from the time of initial police contact.

If a victim advocate takes notes during an interview, the notes must be turned over to the defense pursuant to the Jenks Act.

2. Enforcement

If there is a violation of the victim’s rights, there is no new trial, but there is a possibility that a sentence may be set aside to enforce the victim’s rights. Under the CVRA, there must be a
‘manifest injustice’ for there to be a violation of a victim’s rights. In one such case, a 4 year sentence was changed to 10 years.

E. **Legal Counsel**

Victims are represented by Victim Counsel on occasion – usually when something goes wrong with their case. Victims are usually represented by a non-profit agency attorney. Funding typically comes from the Office of Victim Services. Other ways of obtaining a Victim Counsel include programs at Georgetown, George Washington, and American University’s law schools.

Prosecutors interviewed had no objection to a victim using counsel. (‘If we get it wrong they can help.’) Victim counsel can provide holistic services including landlord/tenant issues, Protective Orders and advice/assistance regarding enforcement of crime victim rights. Victim counsel is also helpful explaining plea agreements to victims. The Crime Victims Rights Act (CVRA) only requires that prosecutors confer with the victim on a plea agreement, not get the victim’s agreement. For the prosecutor, it is only one of many pleas, but for victims, it is the ONLY plea agreement - a victim counsel can have a more personal discussion about the plea and help the victim better understand the process.

The victim attorney interviewed believes there is a lot of mistrust of police and prosecutors, so an independent victim counsel is helpful for dispelling some of that mistrust. He also believes there is a need for victim counsel even with victim advocates. Victim counsel should work with victim advocates as part of a team approach and not instead of victim advocates.

Victim counsel may sit in on police and prosecutor interviews with the victim.

Regarding a victim’s collateral misconduct, typically a victim counsel does not represent victims who also have criminal charges pending against them.

Victim counsel has standing. They enter a Notice of Appearance in the criminal case. They have authority to enforce CVRA and District victim rights.

Victim counsel typically do not get discovery from the government or defense counsel until there is an issue affecting victim rights, such as victim medical records.

If there is an issue where victim counsel needs to make legal argument, he will go into the well to make it, and then sit back in the gallery behind the prosecutor’s table.

F. **Criminal Procedure**

1. **Charging**

The US Attorney’s Office does charge in alcohol facilitated sex crimes cases, but looks for corroboration (forensics) to avoid charging the wrong defendant. There have been 3
exonerations in the last 20 years, and the Office does not want any cases where an innocent person is incarcerated.

2. Pleas

Plea offers made by line prosecutors are approved by supervisors. Offers are not made for sex offense cases until the prosecutor has spoken to the victim. If an offer is not accepted until the day of trial, the defendant must plead ‘straight up’ as charged.

If a case is dismissed after charging, the prosecutor will move to dismiss, and not list the specific reason(s) for dismissal. The victim will be brought in to discuss a dismissal prior to its occurrence.

3. Preliminary Hearing

At the Grand Jury hearing, only the prosecutor is present. Victim counsel and defense counsel remain outside the hearing room. Testimony from the Grand Jury hearing is recorded and transcribed. It must be turned over to the defense at the beginning of trial. It can be used to impeach a victim or witness just like any other testimony.

4. Sentencing

The victim has the right to make an unsworn statement on sentencing. Prosecutors interviewed have not seen defense counsel put on rebuttal evidence to a victim’s statement.

G. Best Practices

1. A multidisciplinary team approach to the investigation and prosecution of sexual assault cases results in better, more complete investigations and professionals who are familiar with the roles of other professionals in the system.

H. Other Considerations

1. Interviewees recommended adoption of the CVRA, which they consider the ‘gold standard.’

2. There should be a right to file a “restricted” report so that a victim is entitled to services, without beginning a police investigation; currently there is no right to do so in the District.

3. Victim counsel should not try to conduct an investigation or dictate the flow of a case. They should support the prosecution, but not look over their shoulder or do their job.
4. Prosecution offices should be familiar with the work victim counsel do and provide referral services to victim counsel when appropriate.

5. Victim counsel should work with victim advocates, instead of victim advocates.
COMPLAINT
ALLEGING FAILURE OF DEPARTMENT OF JUSTICE
EMPLOYEE TO PROVIDE RIGHTS TO A CRIME VICTIM UNDER
THE CRIME VICTIMS’ RIGHTS ACT OF 2004

Return signed form, including additional pages or documents to:
Assistant US Attorney Jelahn Stewart                  Phone: (202) 252 7177
Chief, Victim/Witness Assistance Unit               Fax: (202) 616 2177
United States Attorney’s Office
555 Fourth Street, NW, Room 1905
Washington, DC 20530

This Complaint form is not designed for the correction of specific victims’ rights violations, but is instead to request corrective or disciplinary action against Department of Justice employees who may have failed to provide or have violated the rights of a crime victim under the Crime Victims’ Rights Act of 2004. A crime victim includes any person who has been directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.

All complaints must be submitted within sixty (60) days of the victim’s knowledge of a violation by the Department of Justice employee, but not more than one year after the actual violation. Receipt of complaints will be acknowledged in writing.

The information provided herein will be used along with other information developed during the investigation to resolve or otherwise determine the merits of this complaint. The information may be furnished to designated officers and employees of agencies and departments of the Federal Government in order to resolve or otherwise determine the merits of this complaint.

Please check the box that applies to the person filing this complaint.

☐ Victim    ☐ Attorney representing victim
☐ Legal Guardian    ☐ Other representative (describe) ___________________________

Name, phone number and relationship to victim of person completing this form (if not the victim).

Is the victim represented by an attorney in this complaint?    ☐ Yes    ☐ No

If yes, please provide the attorney’s name and contact information. All future contacts with the victim regarding this complaint will be made through the attorney.
1. **PERSONAL INFORMATION ABOUT THE VICTIM**

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2. **INFORMATION ABOUT THE CRIMINAL CASE**

The following section requests important information about the criminal investigation or case in which you are a victim. Please provide as much information as you can.

- Stage of the Criminal Justice Process - Select most recent event:
  - □ Investigation
  - □ Arrest
  - □ Arraignment
  - □ Preliminary Hearing
  - □ Guilty Plea
  - □ Trial
  - □ Sentencing
  - □ Parole Hearing
  - □ Other ________________________________________

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<th>Defendant(s) Name(s):</th>
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<th>Case Number:</th>
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<td>□ Superior Court of the District of Columbia</td>
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**INFORMATION ABOUT THE VICTIM’S COMPLAINT**

What is the location and name of the office(s) or organization(s) of the Department of Justice that is/are the subject of your complaint?

_________________________________________________________________________________

Is your complaint against a specific person in that office?  □ Yes  □ No

If yes, please identify the person(s) (include position or title, if known) who failed to provide the right(s) about which you are
complaining.

Which of the following rights afforded by the Crime Victims’ Rights Act of 2004, 18 U.S.C. § 3771, do you feel you were denied? Please check all that apply.

☐ The right to be reasonably protected from the accused.

☐ The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.

☐ The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

☐ The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.

☐ The reasonable right to confer with the attorney for the Government in the case.

☐ The right to full and timely restitution as provided by law.

☐ The right to proceedings free from unreasonable delay.

☐ The right to be treated with fairness and with respect for the victim’s dignity and privacy.

4. STATEMENT OF COMPLAINANT

Please provide as much detailed information about your complaint against the Department of Justice employee(s) as possible, including the date(s) of the alleged violation(s), and an explanation of how the violation(s) occurred. However, you should not discuss the facts of the criminal investigation or case in which you are a victim. You may attach additional pages or documents to this complaint.
5. **PRIOR NOTIFICATION TO THE DEPARTMENT OF JUSTICE**

Although you are not required to do so, did you notify the Department of Justice employee, or any employee of the office described above, of the alleged violation before filing this complaint? □ Yes □ No

If yes, please describe your efforts to resolve this matter, including the date(s) that you notified the Department of Justice employee or any employee of the office described above; the name, address and telephone number of the person with whom you attempted to resolve this matter; and the actions taken by the Department of Justice employee or office to resolve your complaint. You may attached additional pages or documents to this complaint.

6.

7. **OTHER RELEVANT INFORMATION**

Provide any other relevant information or event(s). You may attach additional pages or documents to this complaint.

The information set forth herein is true and correct to the best of my knowledge.

Signature: ____________________________ Date: ____________________________ (Must be signed by Victim)

If the crime victim is under 18 years of age, incompetent, incapacitated, or deceased, this form must be signed by the Legal Guardian of the crime victim or the representative of the crime victim’s estate, family member, or any other person appointed by the court. Please check all that apply to the victim:

□ Under 18 years of age □ Incapacitated □ Incompetent □ Deceased

Signature: ____________________________ Date: ____________________________
Jurisdiction: Athens-Clarke County, Georgia

A. Introduction

Athens, Georgia is a college town, housing the University of Georgia, and is situated approximately 70 miles from Atlanta, a major city. The University has approximately 35,000 students in the student body. The county, Clarke County, is the poorest in the state with a 27% poverty rate. The total population of Athens-Clarke County is approximately 120,000 without the student body. During the school year, approximately 10% of adult sexual assault cases arise from the student body. According to FBI Crime statistics, Athens-Clarke County had a forcible rape rate of 22.6 per 100,000 inhabitants.

B. Law Enforcement

1. Organization

Athens-Clarke County has a specialized special victims unit that is housed in a “Family Protection Center” near, but not co-located with, the police department. The unit investigates adult sexual assault, family violence and child abuse (sexual and physical). The unit consists of three detectives and one sergeant. The average level of experience is between one and seven years within the unit. There are no established prerequisites to joining the unit, but assignment is competitive and selective. Assignments are made personally by the assistant Chief of Police based on criteria such as personality and mind set. Additionally, assignments are made in consultation with the District Attorney’s Office, a credit to the close working relationship between the investigators and the prosecutors. An officer must first request assignment to the unit before any vetting or selection can occur.

Investigators in the special victims unit receive specialized training on forensic interview techniques in recognition of the unique challenges associated with investigating these cases. The unit periodically sends investigators to other training whenever opportunities and funding are available.

2. Investigation

The special victims unit typically receives approximately five new cases per month per investigator. By far, most investigations by the special victims unit involve child victims. In this jurisdiction, a report of sexual assault cannot be “unfounded” or otherwise “cleared” without supervisory review. In most cases there is no consultation with prosecutors during the investigative process. This is largely due to the long-existing relationship between special victim prosecutors and the special victim investigators in the jurisdiction, resulting in an implied understanding on the investigators’ end of what the District Attorney’s Office needs to effectively prosecute the case.
All suspect interviews are video recorded. Most victim interviews are recorded as well. Most reports are made when a victim seeks hospital treatment due to the fact that medical personnel are mandatory reporters. At the time of report, a local community-based victim advocacy organization, “The Cottage” (discussed below), is called in. The responding patrol officer or victim advocate will explain to the victim the available reporting options. The victim may report or not report. If the victim chooses not to report, evidence from the SANE exam will be retained for one year in case the victim decides to make a report.

Where victims may have committed offenses collateral to the sexual assault such as underage drinking or illegal drugs, investigators use their discretion not to charge, telling victims they are most concerned about finding out what happened. This most typically occurs where the victim is a college student and these tend to be cases where victims choose not report.

C. Prosecution

The District Attorney’s Office has three special victims prosecutors. These attorneys act as lead counsel on all crimes against elderly, children and women, and all serious violent felonies. Prior to establishing this specialized capability, the District Attorney’s Office had a backlog of over 300 felony special victim cases. Now, most cases average from one year to fourteen months for disposition from arrest.

Prosecutors in the District Attorney’s Office are assigned to courtrooms. Typically each courtroom will have a supervisory attorney with significant levels of experience and two line prosecutors. The supervisory attorney in each courtroom is also the special victims prosecutor. Special victims cases are prosecuted in teams consisting of the lead special victims prosecutor and one of the two line prosecutors. This serves to provide a case with the specialized skill and expertise of a special victims prosecutor and allows less experienced prosecutors to gain experience prosecuting these cases.

Prosecution in this jurisdiction is typically a “vertical prosecution” model. The case is initially assigned to a prosecutor prior to any Grand Jury proceeding and that prosecutor will stick with the case through the pretrial, trial, and post-trial/appellate periods. In addition to vertical prosecution, the case will stay with the same judge through disposition.

The District Attorney’s Office strongly favors videotaped interviews where possible largely because the viewer can see the emotion, expressions, blood on clothing, etc. during the interview.

When a sexual assault is reported, the prosecutor will attempt to meet with the victim within one or two weeks, if the victim is willing. The prosecutor typically will not discuss the assault or facts of the case at this point. This is simply an initial meet and greet for the victim to get to know the prosecutor. The victim advocate from the prosecutor’s office will be present for this meeting.
Plea negotiations typically begin after the prosecutor serves discovery. Defense attorneys seem most interested initially in getting discovery so that they can competently advise the defendant during plea negotiations. Georgia law does not differentiate between sex offenses by grade. For example an “insensible” sexual assault (analogous to a substantial incapacitation theory under the UCMJ) is treated the same as forcible rape for sentencing purposes.

Many pretrial agreements require approval of the elected District Attorney. Office policy requires approval by the District Attorney before a prosecutor can enter a pretrial agreement that “comes off any of the seven deadly sin crimes,” including rape/sexual assault. A prosecutor does not have the ability to negotiate sex offender registration other than to dismiss a charge requiring registration and allowing the defendant to plead guilty to another offense that does not require registration. The District Attorney emphasizes the importance of communication with victims and will inquire as to the victim’s thoughts before authorizing any plea agreement.

D. Victim Services

In this jurisdiction, there are both system-based and community-based victim advocates. Prior to involvement by the District Attorney’s Office, victims are offered services through “The Cottage,” a community-based victim advocacy organization. The Cottage is a 501(c)(3) organization that provides victim advocacy services to the local area. The Cottage has one advocate, with a Master’s Degree in Social Work, on duty at any given time. Additionally, there will usually be 2-3 student interns from the local university.

Involvement by advocates from The Cottage begins immediately at the time of report. For example, when a victim seeks treatment at a hospital, the hospital will report the incident as a mandatory reporter and will also call an advocate from The Cottage.

Victims may also visit The Cottage prior to any police involvement. The victim advocate will meet with the victim to address immediate needs through crisis counseling and also discuss the victim’s options, which include 1) make a report to police; 2) receive a SANE exam without police involvement; or 3) do nothing. Most victims choose to receive the SANE exam without police involvement. A victim may come back within the next year and choose to make a report.

The Cottage offers regular counseling meetings and will refer victims to other practitioners for more in-depth counseling and group therapy. Approximately 70% of victims take advantage of counseling services. The victim advocate will often be present at the SANE exam and will stick with the client throughout the judicial process.

The Family Protection Center that houses the special victims investigation unit also houses a Sexual Assault Nurse Examiner (SANE). Prior to being housed at the Family Protection Center, the SANE was housed at The Cottage. Like The Cottage, the SANE program in this jurisdiction is a community-based 501(c)(3) organization comprised of off-duty nurses who donate their “call hours” to the Family Protection Center. 99% of examinations are conducted at the Family Protection Center.
Protection Center. Once the examination is complete, the SANE will not typically have any follow-on contact with the victim.

The District Attorney’s Office has system-based victim advocates. The system-based advocates see their role primarily as explaining victim rights, getting the victim ready to face the accused at trial, providing crisis intervention, explaining the court system, and providing services that are court-specific. They do not offer long-term counseling. System-based advocates here average 8-9 years of experience but some have significantly more.

E. Multi-Disciplinary Team

Athens-Clarke County agencies participate in regular Sexual Assault Response Team meetings to bring professionals and agencies together. At times, there are discussions about problems or issues that are community wide and other times the meetings will be called to brief specific cases. For these specific meetings, agencies which will have something to contribute are asked to participate.

These meetings will typically include some or all of the following: Police detectives, victim advocates, community advocates from The Cottage, Family Protection staff or SANE personnel, University of Georgia Police Department, the health department, and University officials.

Having a multidisciplinary facility such as the Family Protection Center facilitates such meetings and discussions and makes it easier to develop relationships between the team members and community professionals.

F. Victim Legal Counsel

Georgia does not have any institutionalized legal representation of victims. Prosecutors’ experiences with attorneys representing victims were limited to an occasional case where a victim may be contemplating or preparing for a collateral or follow-on civil suit against a defendant after the criminal trial.

G. Criminal Procedure

1. Reporting Sexual Assault

In Georgia, victims of sexual assault are able to obtain medical treatment, have a forensic examination to collect evidence and receive support from community victim advocates without reporting the crime to police in a way that generates a referral to prosecutors. If a victim chooses to do a “non-report,” the police will assign a case number so that the SANE report and forensic evidence can be collected and stored for one year.

The victim can come back at any time to change the report to an active police investigation, but it rarely happens. In Athens, detectives could recall one time in the two to three years this
process has been in effect that a victim came back and changed the report to pursue criminal charges. Police also report that a large percentage of these cases involve victims who are students.

2. Charging Decision

Prosecutors charge what they believe they can prove, based on the evidence in the case. As a general rule, prosecutors will indict the case within 90 days. If a defendant is arrested, the case must be indicted within 90 days or else the defendant will be entitled to a bond.

3. Preliminary Hearing

Felony sexual assault cases are indicted by a Grand Jury that meets weekly. The lead detective will testify at the Grand Jury hearing. The detective will also read the indictment before the grand jury and discuss charging options. Jurors can also ask questions of the detective or other witnesses. Generally, the victim will not be present for the hearing but will sometimes be called. If the Grand Jury desires, they can also ask questions of the victim. The detective and witnesses leave the room when the Grand Jury deliberates. Although the standard for the Grand Jury is probable cause, the prosecutor will sometimes ask them to opine regarding whether they could find proof beyond a reasonable doubt.

4. Pleas

Plea bargaining is similar to other jurisdictions. Prosecutors may not bargain away the requirement for a defendant to register as a sex offender for a qualifying offense. The only way a prosecutor may negotiate this is to allow a defendant to plea to a different, non-registerable offense. However, the prosecutor may not bargain away the more serious offense without prior approval of the elected district attorney.

5. Alternative Disposition

Georgia does not have a mechanism for alternative disposition of sexual assault cases.

6. Trial

Cases will typically take one year to fourteen months from arrest to trial. This is a reduction from years past, where there were over 300 cases pending at one point.

There are two ADAs at counsel table during sexual assault trials. This is often a training tool to give newer attorneys the opportunity to “second chair” a sexual assault trial.

7. Sentencing

The judge is responsible for sentencing, except in capital cases. Sex offenses have mandatory minimum sentences. Sex offenses are not differentiated by degree. Therefore, an
“insensible” sexual assault is treated the same as forcible rape at sentencing, as far as minimum sentence.

H. Victim Rights Enforcement

The elected district attorney in this jurisdiction was one of the primary driving forces in the state to pass the “Crime Victim Bill of Rights” (CVBR). The CVBR is a progressive model in the rights given to a victim. For example, the victim has the right to not be contacted by defense or to be contacted only in the manner they choose.

There is no statutory mechanism for enforcement of victim rights. However, judges are very attune to victims’ rights and will not proceed with a trial/plea without the presence (or waiver) of a victim on a case involving “one of the seven deadly sins.”

Non-statutory enforcement mechanisms could include a bar complaint against an attorney or a complaint with the Judicial Qualifications Commission against a judge.

I. Best Practices

1. Practitioners here praised the Family Protection Center which is built on a Multi-Disciplinary Team model where stakeholders are co-located, as much as possible, in one building. This serves as a one-stop shop for victims and fosters very close working relationships with investigators, SANE volunteers, victim advocates, and prosecutors. Though the prosecutor is not housed in the Family Protection Center, the center does have an office reserved for use by the prosecutor as needed.

2. Practitioners emphasized the importance of communicating with victims and making sure that they feel like people are listening to them. Additionally, practitioners noted that victims like to be given choices, vice being directed.
IF YOU ARE THREATENED OR HARASSED

If anyone threatens you or you feel that you are being harassed because of your cooperation with this case, there are remedies available. Your safety is para-mount. Please contact the investigating agent or the Victim-Witness Program immediately. They may discuss with you additional safety measures and assistance such as temporary restraining orders, possible relocation, or other appropriate referrals.

OTHER ASSISTANCE & SERVICES

If you are a victim, you are entitled to:

- Notification of case events, usually by letter or E-mail, through the Victim Notification System. If the defendant is convicted and sentenced to the custody of the Bureau of Prisons, notification will continue regarding the defendant’s release date, furlough, or escape. REMINDER: Please keep us informed of any address, E-mail, or telephone number changes.
- Referrals to other agencies or professionals for counseling, shelter, and/or compensation.

If you are a victim or a witness, you are entitled to:

- A separate waiting area away from defendant and defense witnesses.
- Courtroom support.
- Information and assistance with travel, lodging, parking, and reimbursement for mandatory court appearances and pre-trial interviews.

LIMITED CONFIDENTIALITY STATEMENT

We are here to assist you as you go through the criminal justice process. However, you should know that we work as part of a team with the criminal prosecutor and the investigative case agent. We do our best to keep sensitive information confidential. As part of the team, there are times when we may need to share information you provide with the other team members. This is especially important if you share information regarding your safety, a medical emergency, information that relates to child abuse, and/or information that is critical to the investigation or prosecution of the case.

CONTACT INFORMATION

Christie Smith Jones
Victim Witness Coordinator
and
Beth Dozier
Victim Witness Specialist
U.S. Attorney’s Office
75 Spring Street, Southwest
Atlanta, Georgia 30303
1-888-431-1918
(404) 581-6102
(404) 581-6041
Fax (404) 5816311

Georgia State Compensation Program
(404) 559-4949
Crisis Hotline
1-800-273-TALK
1-800-SUICIDE

National Organization for Victim Assistance
1-800-TRY-NOVA
National Center for Victims of Crime
1-800-FYI-CALL

"Our Nation’s highest ideals of compassion and justice demand that we protect the welfare of all victims." - Attorney General Alberto Gonzales

Office of the United States Attorney
Northern District of Georgia
Victim Witness Program
The following information has been prepared to help answer questions that may arise. We have included information which will give you an understanding of how the Federal criminal justice system works.

The role of the United States Attorney’s Office is to prosecute cases fairly and justly. Our actions on your behalf do not constitute an attorney-client relationship and we cannot give you legal advice. The interests of the United States may occasionally diverge from your interests as a victim.

Victims’ Rights

The Crime Victims’ Rights Act gives victims of offenses charged in Federal court the following rights:

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in the law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim’s dignity and privacy.

We will make our best efforts to ensure you are provided the rights described. You may seek the advice of an attorney with respect to these rights.

THE CRIMINAL JUSTICE PROCESS

As the case moves through the Federal court system, there are several events that typically occur.

INVESTIGATION

ARREST

DETENTION HEARING (POSSIBLE)

The Government is seeking to detain the defendant and may do so based on the statement of the prosecutor or by presenting witnesses and exhibits.

PRELIMINARY HEARING

A Judge determines if there is sufficient probable cause to charge the defendant. This only occurs if the defendant has not been charged by the Grand Jury.

or

GRAND JURY HEARING

A Grand Jury hears evidence in a non-public proceeding and may issue a formal charge called an indictment.

An Arrest Warrant may be issued at this time.

ARRAIGNMENT

A defendant appears in court and hears the charge(s) against him/her. At this time, the defendant typically enters a plea of not guilty.

DISCOVERY, PLEA NEGOTIATIONS & MOTIONS

This may include hearings & rulings on motions concerning the admissibility of evidence, trial issues, or a possible guilty plea from the defendant.

TRIAL

The Government presents its case with witnesses, followed by the defendant’s case. The trial generally results in a verdict by a jury.

PRESIDENCE INVESTIGATION & REPORT PREPARED

After a finding of guilt, a presentence report is prepared for the judge by U.S. Probation, at which time you have the right to submit written victim impact statements.

SENTENCE

APPEAL

Victim Compensation

The Victim Compensation Program for the State of Georgia helps cover expenses for eligible victims of violent crime who have suffered physical or psychological injury due to the victimization. The Crime Victim Compensation Program may be able to reimburse you for crime related expenses such as medical expenses, mental health expenses, lost wages, loss of support, funeral expenses, and/or crime scene clean-up. The claim needs to be filed within 1 year of the crime. To obtain further information on eligibility requirements and an application, contact the Victim Witness Coordinator or Victim Witness Specialist listed on the back of this brochure.

Restitution

Under Federal law, restitution is mandatory for many (but not all) types of crimes. It is important for victims, who may be entitled to restitution, to keep a record of their losses, medical expenses, property damage and counseling expenses, with receipts when possible. This information will be needed by the probation department if the defendant is convicted and ordered to pay restitution.

THE EMOTIONAL IMPACT OF CRIME

Many victims of and witnesses to crime are emotionally affected by their experience and although everyone reacts differently, many people report common reactions such as:

- Anger
- Feelings of panic and/or anxiety
- Nightmares and sleep pattern changes
- Feelings of self-doubt, shame or guilt
- Reliving what happened
- Depression, difficulty concentrating
- Increased concern for personal safety and that of their family

Many people continue to have these responses for some time after the crime. The Victim Witness Program can assist you in finding appropriate support services.
Jurisdiction: Baltimore, Maryland

A. Introduction

Baltimore City is one of Maryland’s most populace cities at 625,474. There are numerous public and private universities in the Baltimore area, the largest being the University of Maryland. According to the 2012 FBI Crime Statistics, Baltimore had 317 forcible rapes reported per 100,000 people. The Baltimore State’s Attorney’s Office has about 400 prosecutors and support personnel spread across several units, including a Special Victims Unit.

B. Law Enforcement

1. Organization

The Baltimore City Police Department (BCPD) has a specialized adult sex crime unit. Detectives in the unit handle between 40-60 cases during any point in time. They receive about 25 new cases each year. Unit supervisors handle about 15 cases themselves during any point in time. Detectives handle cases in pairs, so the cases they will be investigating are about double the cases assigned specifically to them.

2. Investigation

Both victim and suspect interviews are videotaped. Both police and prosecutors find doing so extremely helpful for resolving cases as well as for trial preparation. Victim interviews are conducted as soon as possible in the investigation.

Maryland law requires a degree of force to charge a crime. This had meant that in many cases the result will be that the victim receives services, but there will not be a prosecution. In the past, the detectives were closing these cases as ‘unfounded.’

Baltimore’s Mayor ordered an audit of cases that had been closed as ‘unfounded.’ After a Sexual Assault Response Team (SART) reviewed all ‘unfounded’ cases, police procedure changed. Now, if a case is to be closed as ‘unfounded,’ the decision is reviewed by a sergeant, the lieutenant in charge of the sex crimes unit, and then the SART. There has also been a change in the language used for uncharged cases that is more supportive of the victim. For instance, instead of closing with the indication that no crime was committed, there will be a notation that ‘we cannot prosecute this crime.’ One of the main reasons this occurs is that Maryland requires a degree of force that is often hard to prove in alcohol facilitated sex crimes.

When police investigate but determine there is not enough evidence to charge or refer to a prosecutor, they will usually discuss with the victim their reason(s) why the case cannot be referred for charging. They will typically have a social worker or victim advocate present when
that meeting takes place. The police work with the community rape crisis advocacy center called ‘Turnaround.’ In some instances a prosecutor will be involved in the discussion.

To help detectives with these meetings, prosecutors are working out a loose ‘script’ for detectives when they interview victims. When the interview is complete, they advise the victim of the next steps in the process.

Another change that has occurred since the audit is that police close fewer cases with an ‘unfounded’ determination than before. Now, if they reach a point where there are currently no further investigative leads but the case is not ready to be charged, the case will be classified as ‘suspended’ until new information is received. While this results in fewer cases being closed, the police department no longer uses the number of closed cases or speed at which a case is closed as a measure of success.

Detectives normally don’t sit at counsel table during trial.

C. Prosecution

1. Organization

The State’s Attorney for Baltimore City (Office) has a Special Victims Unit devoted to the prosecution of cases involving sex crimes domestic violence and child abuse. The Unit also prosecutes sex-related misdemeanors such as failure to register with the Maryland Sex Offender Registry.

The office believes that it is important to have the ‘right people’ who have the ‘right personality’ for the job, and that it is not always possible to use ‘best practices’ without having a fully staffed unit.

The Office has an on-call prosecutor available 24 hours a day to assist with the investigation of sex offense cases and respond to questions from investigators.

The Office also has investigators (typically retired officers) who locate witnesses, sit in/assist with interviews, serve subpoenas, prepare case files, and explain the trial process to victims and witnesses.

2. Experience and Training

Prosecutors have between 3-5 years experience prosecuting misdemeanors and general felonies (such as drug, property and gun cases) before they can apply to one of four specialty units, of which one is the Special Victims Unit.

Prosecutors are assigned to the specialty units, including the special victims unit, based on an interview and selection process. Prosecutors who are selected can work independently but
collaboratively. Prosecutors have a great deal of autonomy in charging cases, but if a case is not going to be charged it must be reviewed by a supervisor.

3. Procedures

Like the police department, the prosecutors have made changes regarding the way they close cases. Now, when a case is closed without charging (or declined) their case notes are written so as not to ‘re-victimize’ the victim. They are very careful to avoid making judgment calls about whether the victim was ‘untruthful’ in his or her statement. There have been a couple of cases in the past where the description of the crime given by the victim seemed unlikely (or fabricated) but they later learned from other sources was actually true.

There is on-going debate as to whether these notes regarding why a case is closed are subject to release to the defense. The situation arises on occasion where a suspect will have more than one case, and at least one was closed without charging. The defense will sometimes argue notes of this type are “Brady” material, even though the prosecutor’s office regards them as work product.

D. Victim Services

1. Victim and Witness Services Division

The State’s Attorney for Baltimore City has a Victim and Witness Services Division which assists with crime victim restitution, notifying participants of court dates, serves as a crisis response team, and coordinates community outreach. They also have a social worker on staff who may work with the victim if needed, especially when discussing a case which can’t be charged or which is being dismissed before trial.

2. Community Based Services

Advocates from Turnaround, Inc. provide initial victim advocate services to victims who report to the hospital because of a sexual assault case. They may also provide on-going services throughout and after a case, and whether or not charges are filed.

Turnaround is a sexual assault/domestic violence center that provides counseling and support services to victims of sexual assault and domestic violence in Baltimore County. Turnaround also has a collaborative relationship with the BCPD, such that when law enforcement is called to the scene, Turnaround will be notified and a victim advocate will also respond. BCPD does not have victim advocates, so Turnaround fills a gap in services.

Turnaround advocates have no agenda except for support of victims. Both the police and prosecutors will refer or discuss Turnaround’s services with victims. If a victim wants to report anonymously, or as a “Jane Doe,” then the Turnaround advocate supports that choice.
Turnaround victim advocates are considered fully trained after about 6 months on the job. In addition to 40 hours of standard training, they receive special training on sexual assault, sex trafficking, and domestic violence. Victim advocates are overseen by a Licensed Social Worker. During training, they learn to understand what their role is in the process, understanding trauma and how people walk through it. Turnaround advocates need to have an excellent understanding of the criminal justice system.

Turnaround advocates are part of the SART team – it speaks to the necessity of collaboration that both advocates from the prosecutor’s office, Turnaround advocates, prosecutors and police are all part of the same team. A ‘wrong attitude’ by one person on the team (such as police or prosecutors) can thwart the system.

The SART existed before the 2011 audit, but since then, there has been a full time coordinator, who pushes for leadership to participate in the team process.

3. Involvement

Victim advocates do not sit in with the victim during interviews with the prosecutor. Prosecutors believe they cannot have a frank discussion with the victim if others are present in the room. They also are concerned that the victim advocate could become a potential witness.

E. Victim Rights

Victims have a right to be notified of court dates and particulars of any plea agreement. Prosecutors will attempt to get input from the victim before making a plea offer and will advise victims of the terms of the plea agreement. Victim advocates are typically included in plea agreement discussions as well as other case milestones (e.g., case preparation, sentencing recommendations). However, there is no enforcement mechanism to ensure victim rights are complied with by prosecutors or the court.

F. Victim Legal Counsel

Staff from the Maryland Crime Victims’ Resource Center (MCVRC) was interviewed. MCVRC consists of four attorneys, three social workers and victim advocates. MCVRC is a full-service resource for victims in that when contacted by the victim, it can provide victim advocate services (such as assisting the victim regarding victim’s rights, court accompaniment, community and faith-based referrals, application for criminal injury compensation from the state), counseling services (such as individual counseling, family counseling, and peer-based grief support groups) and legal services (such as asserting victims’ rights throughout criminal proceedings and requesting an collecting restitution for the offender).
Staff attorneys represent victims on various types of crimes. They have also received a grant to work with victims of identity theft.

Staff attorneys explained that there is a need for victim counsel in sexual assault cases because the needs of the victim do not always correlate with the state. The state has a broader view and it may not have the same interests as the individual victim. For example, the victim has greater concerns about privacy.

While prosecutors try the case, the victim lawyer will make motions and appeals that are focused on upholding the rights of the victim. In some cases, they may request the prosecutor work out a plea agreement with the defense in order to spare the victim from testifying.

MCVRC attorneys have attorney-client privilege, in which the staff (social workers, advocates) fall within that privilege.

Attorneys interviewed acknowledged there has been a mixed reaction from prosecutors regarding their role and involvement in cases. They find that there is some tension between the victim and the process. Sometimes, the victim attorney can bring the victim around by explaining the process. The experience level of the victim attorney is important to be able to explain the process to the victim.

Victim’s counsel enters a notice of appearance when representing a victim so that others know the victim is represented. This changes the dynamic in the case, even without anything occurring. They found that judges in trial court criminal cases tend to consider victim rights during the process, so fewer victims seek services than they might have expected, such as:

- If the victim is in trial, the victim attorney will sit in trial with the victim.
- The attorney might stand up to address the court regarding privacy issues (including rape shield issues, medical records, etc.)
- Attorney will also address courts regarding plea agreement violations, whether the victim’s name can be used, etc.

Counsel report that their job is not to interfere but will make the motions needed in the case.

- Usually counsel will sit in the well, occasionally with the prosecutor
- Their duties or scope of representation depends on what the victim wants
- They are not a crisis responder.
- They view their role more as an interpreter, not an assistant to the prosecutor
- Attorney ethical standards do not permit an attorney to advise a victim to lie in court.
- Normally, they will not stand up and argue during trial – although that has occurred in Arizona.
• In Maryland, it was a victory to get permission to have the victim in the courtroom throughout the trial. Case law is not very expansive with regard to victim rights.

In Maryland, a victim counsel could stand and object regarding the victim’s testimony, but those attorneys interviewed do not do so. Rather, they would probably file a motion before hand, if they determine the prosecution would not be filing one.

Victim advocates in the office also accompany the victim to court for emotional support. They also explain victim rights and the process to victims, similar to the prosecutor’s office. They work with the prosecutor (the lead advocate worked for the prosecutor’s office for 18 years).

The advocate will either work with a victim lawyer or call the prosecutor to advocate for the victim.

Depending on the victim’s feelings, attorneys will sometimes tell prosecutor’s that they can speak with the victim about the case except for discussions about victim rights.

Enforcement mechanisms – attorneys believe that any remedy will not be permitted if it violates the defendant’s double jeopardy rights. The best remedy is to uphold the rights at the time of trial. Victim attorneys believe that having a victim attorney present empowers the victim. They use the motto, “with liberty and justice for all.”

Prosecutors also reported some experience with the Sexual Assault Legal Institute (SALI). Mostly, these attorneys deal with issues that are extraneous to the criminal case. While they may enter an appearance, they do not sit at counsel table. The prosecutors could only recall one case in which counsel appeared on a case. It was a homicide case, where the victim’s parents wanted permission to sit through the trial. In other cases, the attorney may represent a victim in a civil case. These attorneys do not sit in on victim interviews with prosecutors.

In cases where the victim’s medical or mental health records are at issue, attorneys from the school or medical facility (such as DSHS) argue to the court regarding release of the records.

G. Criminal Procedure

1. Charging Decisions

Prosecutors have a great deal of autonomy regarding charging decisions, but if a prosecutor decides not to charge a case, it must be reviewed by a supervisor. If a prosecutor decides to charge the case, it does not need to be reviewed by a supervisor.

Every sexual assault case is given the same attention and investigation, whether it’s a stranger rape or an acquaintance rape case. Where a prosecutor believes a case could be charged
if more investigation was done, a follow up or supplemental report will be requested to get the correct information.

In collaboration with the BCPD, the Office developed a tiered system for when cases must be investigated and turned over to prosecutors for charging. A detective must get the entire case to the prosecutor within a 3, 7, or 14 day time frame, depending on several factors, including the defendant’s danger to the community.

In some cases, when charging seems unlikely because of evidentiary issues such as victim credibility or other issues, prosecutors will meet with and interview the victim. If they still can’t proceed, there will be a discussion with police and notes written, but not a formal declination memo. Likewise, if a case is dismissed after charging, “nolle pros” the reasons are not put on the record. They simply note there is “insufficient evidence” to proceed. This is done to avoid re-victimizing the victim. They rarely will point out specifics, as it only can hurt the victim.

It is important to make it clear to the victim what decision is being made and who is making it, instead of having professionals from one agency ‘blame’ or put responsibility on another. Typically, prosecutors will meet with the victim if the case has been referred to them, along with a victim advocate and detective.

2. Pleas

Prosecutors have latitude regarding plea negotiations, but if a prosecutor is reducing from the top charge, it must be reviewed in writing. Plea agreements are not made in writing. The court will use the officer’s statement of probable cause to form the basis for accepting the plea.

The probable cause statement, written by the officer, for charging is used to provide the court a basis for the plea.

Prosecutors will normally discuss plea offers with a victim and work with the victim through the process. They will get input from the victim and discuss the reasons for the plea agreement. Victims may not always be in agreement with the plea offer, but they will understand the reasons for it. Victim advocates work with and support the victim through the process.

3. Trial

Typically, defense counsel will make a motion to keep the victim out of the courtroom until the victim has testified. While technically the victim could sit in the courtroom after testifying, they often aren’t able to, because of the possibility they could be recalled. They do come in, however, for the closing arguments. This protects the integrity of the case.
4. **Sentencing**

Sentencing is done by the judge. Some judges permit victims to tell them what they’d like to see happen regarding sentencing.

H. **Best Practices**

1. When cases are being declined or dismissed, professionals meet with victims to explain why and discuss questions they may have. Generally police, prosecutors and victim advocates are all present. This prevents different professionals from “blaming” another group or individual for the lack of prosecution.

2. Victim lawyers work with victim advocates to ensure comprehensive services.

3. Victim advocates from an outside organization provide emergency services to the victim from initial police contact through trial and beyond. All victim advocates receive training and understand the criminal justice system. They all work together to provide services for the victim.
You Should Contact MCVRC If:

• You want to be heard on the release of the offender at bond or parole hearings
• You want to be heard at sentencing
• You want to request restitution
• You want to be present at criminal justice proceedings
• You want to protect your privacy
• You want HIV testing of the offender
• You are a victim of identity theft
• Your civil rights have been violated

Go to: www.mdcrimevictims.org/help to complete an on-line application for assistance

“I honestly don’t know how I would have made it through the trial without MCVRC support. They guided me through the entire process and helped me heal. They provided me with information regarding victims’ rights, accompanied me to the trial and supported me during the hardest time in my life. Even to this day they are still there for me. God bless MCVRC!!”
- Anonymous
Taken from a survey with permission

“The Maryland Crime Victims’ Resource Center’s Legal Clinic has been an invaluable resource to Tom and me. Tom was a pedestrian struck by a drunk driver. The Center helped support our family at trial when the man that hit my husband was convicted of his crime. The Center had taken proactive steps to support an appeal for a review of restitution on our behalf. If it wasn’t for them, we wouldn’t have understood our rights.”
- Debra & Tom Fiori
Victim of drunk driving crash

“Everyone that works for Maryland Crime Victims’ has shown lots of love for all families. I also appreciate the fact that they understand the grief, hurt, and pain.
I WAS A VICTIM - NOW I AM A SURVIVOR OF TRAGEDY”
- Vicki Muhammad & Family

“As a victim services coordinator, I am expected to have all the answers. I have recently been confronted with a victim’s issue where my resources were spent. When we turned to the Maryland Crime Victims’ Resource Center for assistance, they went above and beyond in helping us find new solutions to the same problems we had been battling for months. They give hope and answers to those who have none left, and that is some of the important help one person can give to another.”
- Angela Boos,
Former Division of Parole & Probation employee & continued victim rights enthusiast

Maryland Crime Victims’
RESOURCE CENTER, INC.
CONTINUING THE MISSIONS OF THE
STEPHANIE ROPER COMMITTEE AND FOUNDATION
TOLL FREE 1-877-VICTIM-1
mail@mdcrimevictims.org
www.mdcrimevictims.org

Maryland Crime Victims’
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mail@mdcrimevictims.org
www.mdcrimevictims.org

“One person can make a difference and every person should try.”
-Stephanie Roper

1-877-VICTIM-1

Appendix I-1 - JSC-SAS Jurisdiction Documents - Maryland
If you are a victim of crime, we can provide you the following free services:

**VICTIM SERVICES**

- Assistance receiving all victims’ rights that apply
- Court accompaniment
- Registration for VINE (Electronic Victim Information and Notification Everyday)
- Community and faith-based referrals
- Applying for criminal injuries compensation from the State
- Pro bono legal referrals for other civil matters
- Twice a month survivors’ peer grief support group in Upper Marlboro

**COUNSELING SERVICES**

- Peer grief support groups
- Individual counseling
- Family counseling
- Sessions to prepare adults, youth, and children with courtroom procedures and expectations

**LEGAL SERVICES**

- Asserting victims’ rights throughout criminal proceedings and appealing denials
- Requesting and collecting restitution from the offender
- Training and technical assistance for victim service providers, volunteers, and attorneys

**MISSION STATEMENT**

To insure that victims of crime receive justice and are treated with dignity and compassion through comprehensive victims’ rights and services.

**VICTIMS OF CRIME HAVE THE RIGHT TO:**

- Be treated with dignity, respect and sensitivity
- Be informed of your rights
- Receive the Crime Victims & Witnesses: Your Rights and Services brochure from a law enforcement agency, a district court commissioner or a juvenile intake officer
- Receive the pamphlet, Your Rights as a Victim in the Criminal and Juvenile Justice Process, from the State’s Attorney’s office responsible for prosecuting the case
- Complete a Crime Notification Request & Demand for Rights Form and return it to the prosecutor in the case
- Receive notification from the US Attorneys Office in federal cases
- Be present and heard at criminal justice proceedings
- Confidentiality and privacy
- Have safety and protection considered
- Crisis intervention services
- Request financial assistance from Criminal Injuries Compensation Boards
- Restitution:
  - To request restitution from an offender
  - To collect court ordered restitution
- Appeal denial of certain victim’s rights both for Maryland and federal victims of crime and seek remedies for the violation of certain rights.
- HIV testing in certain situations

**REMINDER**

KEEP YOUR ADDRESS CURRENT WITH THE COURT, THE COMMITMENT FACILITY, THE STATE’S ATTORNEY IN YOUR CASE, THE ATTORNEY GENERAL’S OFFICE, OR THE PERSON OR ORGANIZATION YOU DESIGNATED AS YOUR ALTERNATE CONTACT.
City of Baltimore, Maryland
Comprehensive Annual Financial Report
Year Ended June 30, 2009

Prepared by the Department of Finance
Edward J. Gallagher
Director of Finance

Bureau of Accounting and Payroll Services
Michael E. Broache
Bureau Chief

Full Audit Report is available at
Sex Offense Case Audit

<table>
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<th>Control#</th>
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Date of Incident __________________ Date of Review __________________

Reviewed by: __________________ Date of Review __________________

Investigating Det./Suprvsr. __________________

Case status:  □ Open □ Suspended □ Unfounded □ Closed by arrest
 □ Closed by exception □ Other________________________

**Case Review:**

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At what stage
Reasonable contact with victim | ☐ | ☐ | ☐ |

Date of most recent contact __________________

If no prosecution, has victim been notified | ☐ | ☐ | ☐ |

Date of notification __________________

**If Unfounded:**

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Notes______________________________

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Appendix I-3 - JSC-SAS Jurisdiction Documentation - Maryland
Jurisdiction: Kent County, Grand Rapids, Michigan

A. Introduction

The city of Grand Rapids is the county seat for Kent County, Michigan. Grand Rapids has a population of about 188,000. The total population of Kent County, including the city of Grand Rapids, is about 614,000. Western Michigan University is located in Grand Rapids, as are several other private and community colleges. There are no military installations in Grand Rapids or Kent County. According to FBI Crime Statistics, the City of Grand Rapids - Wyoming Metropolitan Area has a forcible rape rate of 42.8 per 100,000 inhabitants.

B. Law Enforcement

Most of the sexual assault reports received by the Kent County Prosecutor’s Office are investigated by either the Kent County Sheriff’s Office or the Grand Rapids Police Department, although reports are received from nine different agencies.

1. Organization

Both the Kent County Sheriff’s Office and the Grand Rapids Police Department (GRPD) have specialized detectives who investigate adult sex offenses, although they are organized differently. In both offices, an officer will typically seek out a supervisor to express interest in working sex crime cases before being assigned to a specialty unit.

The GRPD is organized into a Family Service Team that investigates child abuse, sexual abuse, domestic abuse, runaway cases, and parental kidnapping cases. There are nine detectives and one sergeant assigned to the unit. Three of the detectives work out of the Child Assessment Center, which is a multidisciplinary center set up for victims of crime who are children.

The Kent County Sheriff’s Office has two specialty detectives who handle adult sexual assault crimes.

Detectives who are assigned to the specialized unit will attend forensic interviewing classes. They will receive training on the State of Michigan protocol for child interviewing. While they don’t receive specialized training for interviewing adult sexual assault victims, the protocols for interviewing adults are similar to those used to interview child victims.

2. Investigation

For a typical report of a sexual assault by an adult victim to either law enforcement agency, a patrol officer will conduct a preliminary interview with the victim. Patrol officers have a ‘211 card,’ which contains hotline numbers, YWCA information (discussed in more detail below), and shelter information.
Law enforcement detectives receive advice from prosecutors during the investigation on issues relating to search warrants or unusual issues that can arise during an investigation. However, in the typical case, the detective will not have much contact with the Prosecutor’s Office in cases not involving an immediate arrest, until the investigation is wrapped up. When there is an arrest, the report must get to the Prosecutor’s Office by the next day and contact will increase.

Interviews with the victim are not recorded. Currently, suspect interviews are audio taped. Law enforcement is developing the capability to conduct videotaped interviews of suspects.

Most of the sexual assault cases investigated are alcohol facilitated sex crimes. Many times people think they were drugged, so detectives try to get lab work done as soon as possible to at least test for the possibility. There is delayed reporting in many of these cases.

Detectives are assigned in all sex cases. Many sexual assault reports are closed without referring to the prosecutor because of the victim’s lack of follow-up and lack of participation in the process. Many of these are alcohol facilitated sexual assault allegations. Cases will also be closed without referring to the prosecutor where there is not enough probable cause to find a crime was committed, or where there are no suspect leads in a “stranger rape” case. Other cases will be turned over to a prosecutor to decide whether they should be charged or not.

The detective will typically sit with the prosecutor during trial. Both detectives and prosecutors find it very helpful – detectives find it is a great training tool, and prosecutors rely on the detective’s insights when selecting a jury.

C. Prosecution Function

1. Organization & Structure

The Kent County Prosecutor’s Office consists of 17 felony prosecutors, 4-5 misdemeanor prosecutors, and 2 warrant attorneys. The warrant attorneys prepare most cases for charging, but do not handle criminal sexual assault cases.

The Prosecutor’s Office assigns cases to felony attorneys based on the way cases are assigned to courtrooms. There are two deputy prosecutors assigned to each judge. However, cases are reviewed and charged (‘issued’) by another attorney. Each prosecutor usually carries about 150 cases. For attorneys who handle sex crime cases, up to half of them may be sex crimes cases. While there is not a separate unit that prosecutes sex crimes, only certain attorneys handle these cases for each of the courtrooms. The Criminal Sexual Conduct (CSC) cases include all sexual assaults, and it is the only case specialty in the office.

While the warrant attorneys will give advice on all types of cases, typically police only contact the CSC attorneys for advice on a sexual assault case, or to prepare a warrant.
2. **Training & Experience**

Prosecutors will all begin by prosecuting misdemeanor offenses. After that, attorneys will be assigned to the individual courtrooms to prosecute felony cases. Typically, they will prosecute Juvenile or less serious felonies first. Prosecutors are not assigned to the CSC cases without having first expressed an interest in prosecuting sex cases. In addition to expressing interest, they will be selected by a supervisor based on their experience, personality, the trust the supervisors have in their ability. Experience level for these prosecutors will be about 9-10 years.

Prosecutors handling these CSC cases will typically attend prosecutor training in San Diego, or Huntsville, Alabama.

3. **Investigation**

The prosecutor will not typically interview a victim before making a charging decision – all the evidence considered is generally based on the police report. However, the detective will have met with the victim, and is available for consultation prior to a charging decision being made.

The prosecutor will meet with the victim before the preliminary hearing. Usually the detective who previously interviewed the victim will be present with the prosecutor; it adds consistency for victims and families to have the detective there.

Issues involving uncooperative victims are handled on a case-by-case basis. If the prosecution can build a case without the victim, it may do so. This can happen when there were statements made during the SANE exam and interview that are admitted under the medical statement exception. Usually the case is resolved by means of a plea agreement if the victim is unwilling to testify, but occasionally the prosecution will dismiss a charge. (This is more common in domestic violence cases vice sex crimes.)

If a prosecutor declines to charge a case, he will not make a written declination – the case is just closed with a ‘denied’ notation. Law enforcement will only close a case if the victim is uncooperative – all other cases go to a prosecutor to review.

In almost half of the cases referred, prosecutors see some sort of victim misconduct involved. Typically the victim will be told that they are worried about the sex offense case, and not the misconduct, such as prostitution or underage drinking. False reports of a sex offense will be prosecuted.

D. **Victim Services**

1. **Prosecution based advocates**
The Grand Rapids Prosecutor’s Office has 7 advocates called Case Managers, and clerical support staff and interns. Each case manager is assigned to a particular court, either in Grand Rapids or Kent County. Most of the Case Managers are very experienced, with some having over 20 years of experience. They have backgrounds in criminal justice, social work, or similar fields. Most began their work as an advocate through an internship with the Prosecutor’s office or a related agency.

The office funds at least 3 staff training programs per year. Attendees conduct in-house training after returning from training. The office also utilizes no-cost training put on by other agencies. There is also a video library with extensive training materials.

Case Managers notify victims and witnesses of court dates and hearings, support victims at hearings and trial, explain the legal process to the victim and maintain contact to explain ‘what happens next’ as well as answer questions about a hearing or procedure that just occurred.

Specifically, Case Managers will:

- Contact the victim within 24 hours of the case being charged.
- Provide a brochure outlining victims’ rights and a letter from the prosecutor to discuss option and set up an interview.
- Set up a meeting with the prosecutor and arrange that the victim be present at preliminary hearings
- When applicable, assist the victim with filing Crime Victim’s Compensation Claims.
- Liaison between the victim, prosecutor, and investigators, including discussing the victim’s wishes with the prosecutor, advocating for the victim when there are conflicts, and explaining the prosecutor’s decisions and actions to the victim.
- Accompany the victim to court hearings and trial, if requested by the victim.
- Coordinate with community victim advocates and investigators regarding victim rights and options.
- Assist the victim with preparation of a victim impact statement, and provide post-sentencing notifications for the victim.

Case Managers do not respond to the scene to meet victims, and do not provide counseling services themselves. They will provide referrals for counseling and other services, and work
with other advocates. If a victim makes a ‘Brady’ type statement to the Case Manager, the Case Manager will notify the prosecutor.

Although the Michigan constitution provides certain rights for crime victims, and Michigan’s William Van Regenmorter Crime Victim’s Rights Act establishes the rights of victims of crime and juvenile offenses, there is no enforcement mechanism in the constitution or law (e.g., no cause of action is created for money damages against the state, a county, a municipality, or any of their agencies, instrumentalities, or employees).

For every fifth case handled in the office, regardless of the offense, a Case Manager will conduct a survey for informational purposes only. Returned surveys are shared with prosecutors.

2. **Non-Governmental Organization/Multidisciplinary Team**

YWCA West Central Michigan (YWCA), located in Grand Rapids, is an example of an entity that offers services that support victims of sexual offenses (in addition to victims of domestic and dating violence, stalking, and child sexual abuse).

YWCA offers victim advocates, short term emergency shelter, short term counseling, support groups for victims of sexual assault, a SANE/Nurse Examiner program that offers free medical-forensic examination to victims within 96 hours of an incident. All of the programs described are located in a central location.

YWCA advocates will coordinate with Case Managers to ensure services are not duplicated. YWCA advocates have a good relationship with prosecutors and will call the prosecutor for assistance if an advocate is unable to explain something regarding the criminal justice system generally or regarding a case specifically.

When a SANE examination is conducted the examiner will discuss reporting options available. There is an option to report, upon which law enforcement will come to the YWCA to conduct an interview. A victim may make a Direct Anonymous Report, in which a victim will talk to law enforcement and provide all information – including the name of the alleged perpetrator(s) – except identification. A victim may also make an Indirect Anonymous Report, which consists of writing a statement for law enforcement, but not speaking with them. A community victim advocate is with the victim during these exams.

SANE nurses generally qualify as expert witnesses. It is unusual that one of them would be called into court to testify; it happens about 5 times a year. They use a form that modified about 2 years ago by a multidisciplinary team to ensure that questions asked as part of the SANE exam relate to medical issues, to ensure admissibility in court. While they will perform forensic suspect exams, the exams are done at another location.
Following a victim’s forensic examination, a victim advocate will discuss counseling options for the victim that are available at the YWCA. These services include short term, no cost counseling services, and longer term programs that are usually funded through insurance or other funding methods.

The YWCA advocates try to avoid duplicating services with those provided by the prosecutor’s office. Advocates from the YWCA feel comfortable discussing criminal justice procedures, and if they have a question, are familiar with the prosecutor to the point where they will pick up the phone and call to get a victim’s questions answered.

The YWCA provides “soft rooms” that law enforcement can use to interview victims. This room is painted a softer color, and has furniture designed to put a victim at ease. Professionals in the area believe it is a better location to conduct victim interviews. There are also other spaces available for prosecutors or law enforcement officers to meet with victims in the building.

At the YWCA, a multidisciplinary Advisory Committee meets quarterly to conduct training and improve services to victims. Committee members include representatives from law enforcement, the Prosecutor’s Office, nurse examiners, victim advocates, and crime lab analysts.

There are also prevention outreach programs sponsored by the YWCA targeting girls at risk, to make healthy choices, avoid unhealthy or unsafe relationships, etc.

E. Victim Counsel

Victim counsel is not ordinarily seen in criminal cases, except in cases where the victim hires an attorney to represent in a civil case. They have not impacted or interfered with the criminal case.

The interviewee from the Prosecutor’s Office thought victim counsel was a ‘bad idea.’ It is redundant except in case where the victim is uncooperative, because the prosecutor/state is supposed to advocate for the victim. Where the victim is uncooperative, or disagrees with the prosecutor, the victim advocate will advocate/argue with the prosecutor on behalf of the victim. That is of course done out of court.

F. Criminal Procedures

1. Charging

The victim is permitted to give input regarding charging before the preliminary hearing, but the prosecutor makes the actual charging decision. The prosecutor will explain that it is the responsibility of the prosecution, as agent of the state, to protect society as a whole and make consistent charging decisions, to the extent possible, between one case and another with similar facts.
If a case submitted by police is “denied” or not charged, the prosecutor will write a note in the file, but does not prepare a written memorandum. Usually, the file will just say “insufficient evidence,” or something of that nature. If a victim disagrees with a charging decision, there can be an informal review by another prosecutor. There can also be a meeting set up with the victim, detective, victim advocate and prosecutor to discuss the charging decision or case dismissal before trial.

2. Preliminary Hearing

When a defendant is in custody, the State has 14 days from arraignment to the preliminary hearing, at which a judge must find probable cause for the case to proceed. The victim is contacted and interviewed before the hearing. If the defendant wants a plea bargain there will generally be a waiver of the preliminary hearing. Otherwise, plea offers made by the prosecutor are generally less favorable. The preliminary hearing is waived in 90% of the cases.

The case detective testifies regarding interviews at the preliminary hearing. Usually the prosecutor and Case Manager (victim advocate) will confirm that the victim is present and cooperative, but the victim will not need to testify. An informal defense victim interview may occur at this time. On occasion, there will be testimony and an opportunity for the defense to cross-examine. The victim advocate and detective will both have had contact with the victim before the preliminary hearing. The victim is permitted to stay in the courtroom after testifying, but not before.

The prosecutor will meet with the victim to prepare for trial if there is no plea agreement. The detective will also be present, as will a victim advocate. On many occasions, advocates from the YWCA will be present to support the victim rather than the victim advocate from the prosecutor’s office.

3. Pleas

After the preliminary hearing, the defendant has 60 days until the settlement conference in which to accept a plea offer. After the settlement conference, it is unusual to enter into a plea until the time of trial (or after trial begins).

It typically takes 2-3 months for a case to go to trial when a defendant is in custody, and 4-6 months when the defendant is not in custody.

4. Restricted reporting
Victims have a number of choices as to how to report a sexual assault in Michigan. In addition to simply making a report and providing identifying information about the victim, there may be the following types of reports:

- **Direct-Anonymous Reporting** – Victim can meet with law enforcement, but not give name, address, date of birth, or other identifying information. The information about the offender may or may not be provided.

- **Indirect-Anonymous Reporting** – Victim may file a written report without meeting with law enforcement. The report can include as much or as little information as the victim chooses to share.

- **No Report to Law Enforcement** – Victim may receive medical or mental health care without a report to law enforcement. Evidence collected during a medical exam will not be turned over, except if ordered to do so by a court.

While law enforcement can conduct an investigation even without the victim’s participation, they generally do not. Exceptions may occur where the victim is severely injured, the case involves a serial rapist, or the sexual assault occurred by an intimate partner.

5. **Sentencing**

Michigan does have sentencing guidelines; guidelines are based on the seriousness of the offense and the defendant’s prior record. Sentences may be enhanced if there is a weapon or other substantial reason. The court can only sentence a defendant outside the guidelines for a substantially compelling reason.

For sex crimes, there are not alternate dispositions to prison for the most part (there may be a treatment option for juveniles, and some variations are permitted in statutory rape cases).

Sentencing is done by a judge. The victim is permitted to give an unsworn victim impact statement. The detective and victim advocate will generally be present, when the victim is in court for the sentencing hearing. There will sometimes be a separate restitution hearing.

G. **Best Practices**

1. Having detectives sit at counsel table through trial promotes better report writing and provides the prosecutor with immediate feedback and assistance during jury selection and while presenting evidence.

2. Multidisciplinary teams where the parties know and trust each other ensure the best care and support for victims, it is also a way to ensure that professionals work together when investigative tools and strategies need to be updated.
3. Multidisciplinary facilities that are victim friendly provide one location where victims can feel safe and protected, thus yielding more productive and complete interviews and reports.

4. Providing written material that is simple and easy to read gives victims a more complete understanding of rights, including restricted reporting options.
HOW YOU CAN HELP

➢ Keep our office up to date with your current address, phone number(s), and/or e-mail address
➢ Attend court hearings
➢ Provide documentation to verify your losses
➢ Fill out and return the Victim Impact Statement

VICTIM ASSISTANCE

The Victim Witness staff is here to assist by providing the following services:

➢ Information about the court process and case progress
➢ Information and assistance in applying for Michigan Crime Victim Services Commission Funds
➢ Referrals to community agencies which may provide counseling and other services
➢ Accompany the victim to court

KENT COUNTY CORRECTIONAL FACILITY
Sheriff Lawrence A. Stelma
703 Ball NE
Grand Rapids MI 49503
(616) 632-6300

DEPARTMENT OF CORRECTIONS
STATE OF MICHIGAN
PO Box 30003
Grandview Plaza Building
Lansing MI 48909
(517) 373-4467
Toll Free: 1-877-886-5401

CRIME VICTIMS SERVICES COMMISSION
Lewis Cass Building
320 S. Walnut St.
Lansing MI 48933
(517) 373-7373
Toll Free: 1-877-251-7373

MICHIGAN CRIME VICTIM NOTIFICATION NETWORK
(800) 770-7657

Kent County Prosecutor’s Office
Victim Witness Unit

WILLIAM A. FORSYTH
PROSECUTOR

KENT COUNTY VICTIM WITNESS UNIT
180 Ottawa – Suite 5400
Grand Rapids, MI 49503
(616) 632-5400
Fax: (616) 632-5389
Toll Free: (877) 451-8115
TDD: (616) 632-5404
YOU R I G H T S

➤ The right to be treated with fairness and respect throughout the criminal justice process
➤ The right to timely disposition of the case following arrest of the accused
➤ The right to be reasonably protected from the accused throughout the criminal justice process
➤ The right to notification of court proceedings
➤ The right to attend trial and all other court proceedings the accused has the right to attend
➤ The right to confer with the prosecution
➤ The right to make a statement to the court at sentencing
➤ The right to restitution
➤ The right to information about the conviction, sentence, imprisonment, and release of the accused

FREQUENTLY ASKED QUESTIONS

Why am I receiving a subpoena?
The law requires live testimony in criminal cases.

Why was this case rescheduled?
Cases are rescheduled for many reasons. Witnesses or attorneys may be unavailable. Multiple trials are set each day and the court decides the scheduling priority of each case.

What is Crime Victim Compensation?
Victims who were injured or lost earnings or support because of the crime may be qualified for reimbursement in addition to court-ordered restitution.

What is an impact statement?
A written or verbal statement letting the court know your feelings about the crime and how it has affected your life.

What happens if I don’t return my impact statement?
Your views on the case may not be known and restitution may not be ordered on your behalf.

Crime and its aftermath can have serious consequences for you, your family and our community. Without your help and cooperation, however, the criminal justice system cannot successfully prosecute those individuals who have obviously demonstrated that they have no regard for your safety or property.

This brochure is meant to provide you with basic information about the court system and to assist you in understanding the various steps of the criminal case in which you are involved.

In an effort to support you and your family during this difficult process, the county has created the Victim/Witness Unit. Its staff is available to answer your questions and to help in any way possible. I would encourage you to contact the office either by phone at (616) 632-5400 or in person. The office is located in Suite 5400 on the 5th floor of the Kent County Courthouse.

Sincerely,

[Signature]

William A. Forsyth
Prosecuting Attorney

For more information please visit our offices, or our website:
http://www.accesskent.com/CourtsAndLawEnforcement/ProsecutorsOffice/
August 1, 2013

People vs. HARRY WILLIAM ALICEA
Circuit Court Case No.: 13-04660-FH
Prosecutor’s Case No.: 41 13 004430 99

Dear Mrs.:

As Kent County Prosecuting Attorney, I am concerned that every victim who is impacted by the Criminal Justice System receives the best possible assistance, information and treatment. In an effort to assure that victims are being treated appropriately, I am asking that you take the time to complete the attached questionnaire and return it in the enclosed, self-addressed envelope.

Your response (anonymously if you prefer) will help me identify areas of concern and make necessary changes.

Thank you for your anticipated assistance.

Sincerely,

William A. Forsyth
Prosecuting Attorney

Enc.
QUESTIONNAIRE

Did the Victim Impact Statement you received in the mail adequately provide you with the opportunity to advise the court how you felt about the crime and what happened to you?

☐ Yes  ☐ No

If No, please explain:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

Do you feel the Victim/Witness Advocate assigned to your case adequately communicated information to you in a timely manner including notification of all hearings?

☐ Yes  ☐ No

If No, please explain:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

Do you feel the Assistant Prosecutor assigned to your case adequately communicated information to you in a courteous manner?

☐ Yes  ☐ No

If No, please explain:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
Were you satisfied with the service you received from the Victim Witness Advocate?

☐ Very Satisfied  ☐ Satisfied  ☐ Not at all satisfied

Please explain:

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

If not satisfied, what suggestions do you have?

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

Were you satisfied with the service you received from the Assistant Prosecutor?

☐ Very satisfied  ☐ Satisfied  ☐ Not at all satisfied

Please explain:

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

If not satisfied, what suggestions do you have?

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

Do you have any additional observations or suggestions?

_________________________________________________________________________
_________________________________________________________________________
_________________________________________________________________________

Optional:
Name: __________________________
Address: _________________________
Phone #: _________________________
e-mail: _________________________
What is MCVNN?

The Michigan Crime Victim Notification Network (MCVNN) is a statewide program CVS participates with to provide telephone notification to those registered. Telephone notifications will be made in the event of an escape, discharge by court order or release on bond, as well as on paroles and discharge of prisoners.

Once a person is registered with CVS, they will automatically receive telephone notifications. A Personal Identification Number (PIN) will be issued in writing to confirm any future telephone notifications.

The Parole Consideration Process

Registered victims will receive a notice at least 30 days prior to a parole review of a prisoner. At that time, you may choose ONE of the following options: (All three options are treated equal.)
1. You may provide a written statement by writing a letter to the parole board.
2. You may give your statement over the telephone to a member of the parole board.
3. You may give your statement by coming to Lansing and speaking to a parole board member.

Registered co-victims and other concerned citizens will receive a notice at least 30 days prior to a parole review of a prisoner. You may submit written correspondence to the parole board to express any concerns or fears you may have.

The parole board panel will review the case and make a decision. Once a decision has been made, a notice will be mailed to you within 14 days.

Restitution

An order of restitution entered under Section 16 of the Act remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law.

When restitution is ordered by the court, it will automatically be made a special condition of a prisoner’s parole.

Probation

Victims may register for notification regarding probationers. A one-time notice will be provided acknowledging the receipt of registration. If the probation is revoked and the defendant is sentenced to MDOC, the victim will be notified and sent a Crime Victim Notification Request form to submit for notices as outlined in the brochure.
Crime Victim Services

The Michigan Department of Corrections (MDOC) Crime Victim Services (CVS) recognizes that victims of crime often need services long after their offender has been incarcerated. CVS is here to offer support services to crime victims after an offender’s conviction. Our mission is to ensure the rights of crime victims are recognized and protected during the correctional process. CVS serves as a point of contact within corrections that is sensitive to the needs of crime victims.

Crime Victim Rights Act
The William Van Renumorler Crime Victim’s Rights Act. P.A. 87 of 1985, as amended, provides certain rights to victims of crimes. Crime victims, as defined by law, shall have the right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process and the right to information about the conviction, sentence, imprisonment, and release of the accused. The victim also has a right to restitution.

Who Is a Victim? Co-Victim?
An individual who suffers direct or threatened physical, financial or emotional harm as a result of the commission of a crime is considered a “victim.” Spouses, children, parents, siblings, grandparents or guardians may also qualify as a victim if the victim is deceased or is physically unable to exercise their privileges and rights as a victim.

What If I Am Threatened, In Fear or Have Other Concerns Regarding and Individual Within the MDOC?
Individuals who do not qualify under the definition of a “victim,” may receive some notifications. You may also submit correspondence to the parole board for their review prior to the parole consideration process to express your concerns.

How Do I Request To Be Notified?
You may request notification by completing a MDOC Crime Victim Notification Request form available from the Prosecuting Attorney, contacting CVS, or the MDOC “victim services” website link.

What Services Do We Provide?
CVS is proud to offer the following services:
- Written notification
- Telephone notification through the Michigan Crime Victim Notification Network (MCVNN)
- Safety planning
- Information and referral on MDOC programs, facilities, parole, and probation offices
- Information and referral on Personal Protection Orders (PPO’s)
- Information and referral to local agencies, which can assist with stalking, domestic and sexual assault
- On-line website services
- Assistance with MDOC Offender Tracking Information System (OTIS)
- Collaborative partnering with county prosecutor offices and statewide agencies to assist victims

Will My Name, Address, Telephone Numbers and Statement Be Kept Confidential?
Yes. Names, addresses, phone numbers and statements provided to MDOC are exempt from disclosure under the terms of the Freedom of Information Act.

Change of Address
Those registered for services through CVS must maintain a current address and telephone number(s) at all times. If your address or telephone number(s) change, you must immediately notify Crime Victim Services in writing with your signature to ensure future notifications.

What Written Notifications Will I Receive?
- The prisoner’s earliest parole eligibility date.
- The transfer of the prisoner to a minimum security facility and the address of that facility.
- The release of the prisoner to a Community Residential Program. Prisoners assigned to “community status” could also be housed in a private residence, including their own home while on electronic monitoring or “tether.”
- Discharge release of the prisoner. This notice will be sent 90 days before the prisoner is discharged on his or her maximum sentence or when released by court order.
- Notice of a public hearing regarding a reprieve, commutation or pardon of the prisoner’s sentence by the Governor, or a public hearing scheduled for a prisoner serving a life sentence where the parole board has voted to consider parole. In addition, a notice will be sent if a reprieve, commutation or pardon is granted.
- Escape of the prisoner
- The victim has the right to provide a written, telephone or in-person statement for consideration by the parole board members. Co-victims or other concerned citizens may provide a written statement.
- Notice of the parole board decision
- Prisoner Placement in Special Alternative Incarceration (SAI)
- Prior to placing a prisoner in SAI, the MDOC must send notification to the sentencing judge to ensure the judge does not have any objections, unless the judge has already approved placement at the time of sentencing. A copy of this notification will be provided to the victim.
- Movement to and from Special Alternative Incarceration.
- Prisoner’s Legal Name Change.
- New Conviction(s).
- Parole Violation. Notice that a prisoner has been returned from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.
COMMUNITY AWARENESS

Education is vital to reducing violence against women and children. The YWCA West Central Michigan provides consultation, community presentations, in-services and professional trainings in all our service areas.

For more information, call 616.459.4681.

All YWCA services are confidential with exceptions to prevent homicide or suicide, as required by child protection laws, and in accordance with other applicable federal and state laws and regulations.

The YWCA will provide equal opportunity and service to all people without regard to race, color, creed, religion, sex, national origin, age, marital status, height, weight, physical non-qualifying handicap/disability or sexual orientation.

We are able to offer some of our services at no cost. Many other YWCA services are offered on a sliding fee scale based on ability to pay. We accept most private insurance, some Medicaid and government reimbursement.

This project is supported by Grant No. 20003-12VD07 awarded to the YWCA West Central Michigan by the Michigan Crime Victim Services Commission. The agreement award of $152,440 (85% of the project), comes from the Federal Crime Victims Fund established by the Victims of Crime Act of 1984 administered by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The YWCA West Central Michigan provides the required match valued at $38,110 by the use of 2631 hours of volunteer hours and $2709 in local cash match.
The YWCA West Central Michigan has been a place of hope, healing and renewal since 1900. Today, our services work in concert to address the issues of violence against women and children which undermine individuals, families and our community.

Crisis Services & Referral Information (No Cost)

Domestic Violence 24-Hour Crisis Line
616.451.2744 / TTY 616.233.4718

Domestic Violence Emergency Shelter
Emergency shelter is available for victims of domestic violence and their dependent children. Shelter residents can also receive referrals for legal, medical, housing, and child care services as needed. Temporary shelter for pets can be arranged too.

Sexual Assault 24-Hour Crisis Line
616.776.RAPE (616.776.7273)

Nurse Examiner Program
To arrange for an appointment 24-hours a day, call 616.776.RAPE (616.776.7273), your local police or 911.

As part of our community's response to sexual assault and domestic violence, the YWCA provides comprehensive, timely, and sensitive medical-forensic examinations. With patient consent, evidence is collected and documented by specially trained, professional nurse examiners in a supportive environment. Also part of this response are volunteer advocates who can offer crisis counseling, support and resources. Medical-forensic examinations are available on a 24-hour, on call basis for females and males 13 years or older. Those seeking an examination should contact the Nurse Examiner Program within 96 hours of the incident. The Nurse Examiner Program can also provide referral for follow-up medical care and counseling.

Short-Term Crisis Support
616.459.4652 (business hours only)
Individual appointments are available for victims and survivors of domestic violence, childhood sexual abuse or adult sexual assault.

Long Term Housing & Support Services
616.459.4652 (business hours only)
To strengthen a domestic violence survivor's ability to maintain a safe, independent life, the YWCA provides transitional and longer-term housing, as well as help in finding employment, advocacy and referrals for legal assistance.

Counseling Services
616.459.4652 (business hours only)
TTY 616.233.4718

Individual Therapy and Counseling
- For survivors of domestic violence and their children.
- For survivors of sexual assault and their families.
- For child victims and their families who are experiencing the trauma of incest or non-familial molestation.

Group Therapy and Counseling
(Confirmed participation is required.)
- For survivors of domestic violence.
- For survivors of childhood sexual abuse.
- For survivors of adult sexual assault.
- For men seeking to stop abusive behavior.

Support Groups
(Drop-in attendance permitted. Call for group schedule. No cost.)
- For adult women who are survivors of domestic violence.
- For adult women who are survivors of childhood sexual abuse.
- For adult women who are survivors of adult sexual assault.
- For teen survivors of sexual assault. (This is not a drop-in group. Confirmed participation is required.)

YWCA Safe Connections
616.459.4652 (business hours only)
YWCA Safe Connections provides supervised parenting time and safe exchange for parents and children in cases where there is a concern for safety due to domestic violence, sexual assault, stalking and/or child abuse.

Girls Incorporated®
at the ywca west central michigan
(9-18 years old)
616.459.7062 x160 (business hours only)
In order to reduce girls' vulnerability to abuse, the YWCA offers programs designed to build girls' self esteem, and confidence, help them set boundaries, and develop healthy relationships with adults – all key elements to building healthy young women. Utilizing the nationally regarded Girls Inc® curricula, specific topics include teen pregnancy prevention, resisting peer pressure, personal safety, healthy relationships, leadership, financial literacy, how to interpret the media's messages, and career opportunities. Programs are offered during and after school and during the summer.

The YWCA offers the most comprehensive range of services and trauma-resolution techniques for victims of domestic and sexual violence in our community. With over 3 decades of experience in this field, highly credentialed and culturally-sensitive clinicians, and a proven record of helping victims heal, the YWCA is a recognized leader in Michigan.

OUR MISSION
Eliminating Racism
Empowering Women & Girls
Promoting Peace, Justice, Freedom and Dignity for All
YWCA west central michigan

REPORTING TO LAW ENFORCEMENT
Important Information About Your Options

☐ Standard Reporting Process: By providing your name and other details surrounding your sexual assault, law enforcement can begin an investigation immediately. This may include collecting corroborating evidence from the scene, talking with other people who may have information about the sexual assault, including the person who sexually assaulted you.

(Must report within 48 hrs. to be eligible for Crime Victim's Compensation.)

NOTE: There are many reasons why you may be hesitant to participate in this process at this time, as a result, the below options have been created to allow for a timely report to law enforcement at a pace that may feel more comfortable to you. You are encouraged to discuss any questions or concerns that you may have with your advocate.

☐ Direct-Anonymous Reporting*: If you are not sure whether to participate in the standard reporting process right now, you can talk with a law enforcement officer anonymously. This gives you the opportunity to meet the officer, ask questions, and learn about the investigation process.

To remain anonymous, you may prefer to withhold any or all of the following:
- Name
- Address
- Date of Birth
- Driver's License #
- Information about the assailant

[When you talk with an officer, you can provide as much or as little information as you are comfortable with about yourself, your sexual assault, and your assailant. The officer will record this information in a written report, and give you a tracking number for future reference. You can provide your name and other identifying information at any time in the future to convert to a standard report, if you choose.]

☐ Indirect-Anonymous Reporting*: If you prefer not to talk with an officer at this time, you can still file a written report with law enforcement. This is called an Indirect-Anonymous Report, because the information about your sexual assault is provided to law enforcement by you in writing versus face-to-face. This report can include as much or as little information as you are comfortable with sharing about yourself, your sexual assault, and your assailant.

[Your written report will be assigned a tracking number for future reference. You can provide your name and other identifying information to law enforcement at any time in the future to convert to a standard report, if you choose.]

☐ No Report to Law Enforcement

NOTE: State of Michigan laws limit the number of years that some criminal sexual conduct crimes can be investigated and therefore prosecuted after the incident. However, a detailed report of a sex crime can be filed with law enforcement at ANY time and may be used against the perpetrator relative to other reported incidents of criminal sexual conduct in the future.

*IMPORTANT:

➢ Even if you report anonymously, law enforcement could still conduct an investigation without your participation. However, they generally do not do so. Some exceptions may include (e.g., cases involving a suspected serial rapist, sexual assault committed by an intimate partner, or when the victim is severely injured).

➢ Evidence collected from your medical forensic examination will not be turned over to law enforcement without your signed consent. However, if a court order is issued, we may be required to release it.

➢ In the event law enforcement learns of new information that may be connected to your sexual assault or assailant they may request that the YWCA Sexual Assault Advocacy Program attempt to contact you to assess your willingness to participate further in the investigation process.

This project is supported by Grant No. 2009-TA-AX-K003 awarded to End Violence Against Women (EVAW) International by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed on this website are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Appendix J-6 - JSC-SAS Jurisdictional Documentation - Michigan
# Sexual Assault Anonymous Self Reporting Form

<table>
<thead>
<tr>
<th>Incident #</th>
<th>YWCA case number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Dates

<table>
<thead>
<tr>
<th>Date of Report (mm/dd/yyyy)</th>
<th>Date of Assault (mm/dd/yyyy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time of Report AM PM</td>
<td>Time of Assault AM PM</td>
</tr>
</tbody>
</table>

## Victim

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Sex</th>
<th>Height</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>F</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Did you go to the hospital after the incident?</th>
<th>Did you receive a sexual assault exam following the incident?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Y ☐ N</td>
<td>☐ Y ☐ N</td>
</tr>
</tbody>
</table>

If yes, which hospital:  ☐ Y ☐ N

Did you receive a sexual assault exam following the incident?  ☐ Y ☐ N

☐ Y ☐ N  ☐ Y ☐ N

Other (indicate)  ☐ Y ☐ N

## Incident Information

<table>
<thead>
<tr>
<th>Location of when you first interacted with suspect before the assault</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location of Assault</th>
<th>Did the suspect take you anywhere after the assault?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☐ Y ☐ N</td>
</tr>
</tbody>
</table>

If yes, describe  ☐ Y ☐ N

## Type of Coercion/Force/Fear Involved (select all that apply)

- ☐ Disregarded my statements
- ☐ Verbal pressure/coercion
- ☐ Position of authority
- ☐ Threat of force or violence
- ☐ Presence of a weapon
- ☐ I was incapacitated/not able to give consent because:
  - ☐ Physical restraint
  - ☐ Physical force
  - ☐ Threat of death
  - ☐ Abduction
  - ☐ Stalking
## Type of Assault

<table>
<thead>
<tr>
<th>Type of Assault (select all that apply)</th>
<th>Penis</th>
<th>Mouth</th>
<th>Object</th>
<th>Attempted</th>
<th>Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vaginal penetration with</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Anal penetration with</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oral penetration with</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Was there other physical injuries? □ Y □ N   If yes, describe

Was there strangulation? □ Y □ N

Describe any thoughts you had during the assault

## Suspect Information

<table>
<thead>
<tr>
<th>Name</th>
<th>Height</th>
<th>Weight</th>
<th>Hair color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race/Ethnicity</td>
<td>Sex</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ M</td>
<td>□ F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date of Birth (mm/dd/yyyy)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City/State</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zip Code</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephone: Home</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Work</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cell</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Email</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Suspect's Defining Characteristics (i.e. tattoos, scars, physical disabilities, etc)

Did the suspect drink any alcohol or take any controlled substance (drugs) in your presence? □ Y □ N   If yes, describe

After the incident? □ Y □ N   If yes, describe

List any other people who were present at the time or near the time of the incident:

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
</tr>
</tbody>
</table>

List anyone you contacted after the incident:

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
</tr>
</tbody>
</table>
Jurisdiction: Bronx, New York

A. Introduction

The Bronx, New York, is a borough of New York City. The 1.41 million residents of the Bronx make up approximately 17% of New York City’s 8.34 million person population. The Bronx District Attorney’s Office employs approximately 400 assistant district attorneys, and more than 400 support staff.

B. Law Enforcement

1. Organization

The NYPD has a specialized unit with special victim detectives who are trained and investigate sexual assault complaints. There are specially trained detectives in the unit. Sexual assault complaints usually are received through a 911 call or because the victim reports to a medical facility for treatment. Victims can get sent to a co-located center named the “Complaint Room.” As soon as law enforcement makes an arrest, the Complaint Room prosecutor will draft the accusatory document. The Complaint Room is open 20 hours a day. Complaint Room ADAs are not part of the Special Victims Bureau.

2. Investigation

A patrol officer will conduct a preliminary interview with the victim. A detective will be assigned, and conduct a follow up in-depth interview at the police station in a room set aside for victim interviews. Victim interviews are not videotaped, nor do victims draft written statements. Detectives believe it is important to take a victim’s report as soon as possible, because it leads to the most accurate, truthful responses. They do not have victims write out their own statements. They have found that the first interviews victims give may be incomplete or not in chronological order, and that later statements may not be consistent, without being able to explain inconsistencies or changes that will typically occur over time. The investigator or police officer will take notes during an interview, and only recantation statements are signed by victims after filing assault charges. Inconsistencies are documented by detectives and reported. Detectives also engage in cognitive reenactment, walking a victim back through the incident, to help get a complete statement.

Police have not taped suspect interviews in the past. However, there is a pilot program which involves recording police interrogations for certain charges that has been in effect for the past year. All sexual assault reports are forwarded to the prosecutor, except for cases in which the victim has recanted. While detectives conduct follow up investigation requested by prosecutors, investigators from the District Attorney’s will conduct follow up investigation on many issues, such as conducting controlled or “pretext” phone calls.
3. **Sexual Assault Response Team**

If victims are taken to one of three hospitals in the county, a victim will not have to wait to be seen more than an hour, and will get Sexual Assault Nurse Examiner (SANE) and Victim Advocate services. There is a special dedicated room at the hospital for SA victims. These individuals make up the Sexual Assault Response Team (SART), and the victim advocates at the hospital are typically volunteers with an outside agency, such as Safe Horizons. The average SART exam lasts 2-5 hours. Investigators will confer with an examiner regarding physical evidence and will help them look for evidence that corroborates the victim’s story. Depending on the outcry, the SART may also do a special toxicology kit (date rape drugs have very short half-life so need to collect evidence quickly).

The SART interview is a 6-page checklist. It is not designed to get the full story or every fact, just to account for everything that might be needed for charging decision and to help preserve evidence which could degrade over time. The ADA is NOT part of the SART process. Victim Advocates who support victim during SART process not from DA’s office – they are the volunteers who respond to the hospital.

C. **Prosecution**

1. **Organization**

   The Bronx District Attorney’s Office has a separate division that handles sex crime prosecutions, and the current bureau chief has been there since 1986 (he became bureau chief in 2007). The Child Abuse/Sex Crimes Bureau (CAS) prosecutes all sexual assault cases involving both child and adult victims, as well misdemeanor and felony assaults against children.

2. **Experience and Training**

   Currently, there are 24 attorneys assigned to the CAS Bureau of the Bronx District Attorney’s office. The prosecutors average five to six years of experience. Of the 24, a chief, a deputy, a supervisor and trial counsel (four attorneys) supervise the 20 other Assistant District Attorneys (ADA). They have about three attorneys with three years (or less) experience, but a majority of the team ranges from three to fifteen years of experience. They each carry a case load of approximately 15-20 cases post-indictment. There is not a separate office that handles cases pre-indictment, so a majority of their time is spent looking at new cases that do not result in felony prosecution. In addition, prosecutors each carry a misdemeanor caseload of approximately 5-10 investigations. There is no formal minimum experience standard for ADA’s to join the Special Victims Bureau, but they prefer attorneys who are experienced. Counsel are typically hired as misdemeanor ADAs. Misdemeanor ADA’s attend a series of training sessions, on a variety of topics. The New York Prosecutors Training Institute (NYPTI) does specialized training for the entire state. By the time an ADA has been employed for three
years, the ADA been to several trainings. The New York Police Department has their own trainings, which ADAs sometimes participate in.

D. Victim Services

The Bronx has dedicated in-house social workers, counselors and victim advocates. These victim advocates and support personnel provide services to the victim whether a case being filed or not.

The Crime Victims Assistance Unit (CVAU) provides victims with a variety of services. Major categories of services include Emotional Supportive Services, Client Advocacy Services, Emergency Assistance, Applications Assistance, Court Accompaniment, and Transportation Services.

The victim advocates have good relationships with the rest of the prosecution team (ADA, law enforcement, investigators). The victim advocate gets most information about a case from the investigator or ADA so the victim is not subjected to a barrage of previously asked questions. A victim advocate may accompany a victim to the grand jury hearing, but they cannot go inside.

Every victim advocate explains the limits of confidentiality with the assigned victim. They do NOT have confidentiality. Victim advocates do not sit in on interviews.

There is great emphasis placed on a victim advocate’s need to understand the criminal justice system, or the victim advocate will be ineffective. Victim Advocates are considered an “informed emotional presence,” serving as a conduit of information from and to the ADA.

The victim advocate stays with a victim throughout the process to reduce stress and the emotional hardship of feeling “re-victimized.” Testifying in court does not have to be re-traumatizing, and the support of victim advocates makes it less so.

The victim advocates have a four-year degree, usually in social work or psychology. The office looks for people with experience in providing support/assistance to those in need. The office has a training program which victim advocates must complete before assisting victims. It includes a two-week observation period, where the victim advocate will sit in the court room to observe. They have similar training requirements as the ADA with regard to on-the-job-training (supervision, etc.). They also participate in unit training with the ADAs.

Therapists provide counseling services to victims, and can take a case whether or not there is a report with police or DA. Therapists employed by the state send a letter to all victims. Services are free and there is no time limit. Victim advocate and therapy services are also available to “secondary victims” (family members). Therapists will have a master’s degree and LCSW hires have field hour experience requirements.
There are times when a victim disagrees with the actions an ADA is taking or plans to take. Victim advocates will stand up to the ADA for the victim, to advocate for the victim’s needs. If a victim does not want to proceed with a case, the prosecutor will usually follow up in 30 days to ensure the victim still does not want to go forward.

The victim advocates explain “what to expect from the system and what the system expects from you.” The advocate also ensures that there is one person to stay with the victim throughout the entire case. They do not sit in with prosecutors during victim interviews, but can be present during SANE nurse examination if the victim wants an advocate to be present. Victim advocates also assist the victim to ensure that the victim is permitted to express any desires regarding plea offers that may be made.

Victim advocates may continue to assist the victim following conviction at Parole Board hearings.

Victim attorneys who represent the victim during the criminal proceeding are uncommon within the jurisdiction. Rarely, a victim will hire outside counsel, who does not participate in the proceedings. The attorney will generally represent the victim on collateral matters and is not part of the criminal process. Prosecutors ensure such attorneys keep clear of the criminal proceeding because their presence is “only going to impede investigation.”

E. Public Defender

The Bronx Defender’s is a holistic public defense and advocacy firm. The office includes criminal defense attorneys, advocates, civil attorneys, immigration attorneys, social workers, and investigators. The office provides this holistic type of defense to enable suspects and recently convicted defendants manage multi-faceted effects of the investigation or conviction.

There are 120 attorneys, divided up and assigned to different mixed trial teams. These teams include a supervising attorney, social worker, and attorney. One trial team is used for the first year public defenders for training, to include training on all the different areas the Bronx Defenders are doing. They also begin in misdemeanor and domestic violence units until they are ready to move into a mixed trials team. Defense counsel from the Bronx Defenders never sit at trial alone, and despite the attorney’s experience level, will always have a co-counsel. The Bronx Defenders does not hire former prosecutors or police officers to be part of their firm.

The Bronx Defenders utilize their own investigators. Their investigators are not former police officers, or former detectives, but instead usually college graduates with majors in criminal justice. The investigators are able to relate to victims well and not appear overbearing or put fear into the victim, which sometimes an attorney or detective can do. They help track down witnesses and evidence, to enable attorneys to more efficiently move through a case.
F. Criminal Procedure

1. Charging

State sentencing guidelines are in place and followed. There are some sex offender treatment options, both as a sentence alternative and during the post-release supervision period. Pleas are negotiated informally, and either the prosecution or defense can initiate plea discussions. The victim is consulted in plea negotiations, but does not control the bottom line on whether a plea deal is entered or the quantum. Almost all sex crime pleas include jail time and some post-release supervision or probationary period.

There is no written “charging protocol,” rather, the ADA receives the complaint, reviews the case, decides to charge, and takes the case to Grand Jury. A decline to prosecute is accompanied by a letter drafted by the ADA. The police and victim see the letter. There may be an on-the-record dismissal as well, if the case is dismissed after charging. Law enforcement/investigators will have a victim sign a statement if they recant. Sometimes recantations result in plea deals or some alternative mental health disposition.

Prosecutors first make contact with investigators in the Complaint Room. The prosecutor will try and meet with the victim right away, but they do not typically have an opportunity to meet with victims until an arrest is made.

There are about 1800 reports of adult and child sex offenses per year, of those approximately 1300 or 1400 are adult cases. There are 300 arrests each year and about 210 of those cases are charged each year.

2. Preliminary Hearing

New York utilizes a Grand Jury process after the initial arrest by police. The victim is required to testify under oath at the hearing. There are 16-23 members on the grand jury and 12 of them must agree for the case to go forward. Victim Advocates can be with them at the Grand Jury. Since the defense attorney is not present at the Grand Jury proceeding, there is no cross-examination.

3. Pleas

A large number of cases, between 90 to 95 percent, are resolved without a trial. Cases may be reduced to permit negotiation regarding collateral issues such as sex offender registration requirements. It is not uncommon for cases to plead out at the last minute, as cases are being called to begin trials.

4. Sentencing

New York has sentencing guidelines, but the prosecutors do have leeway that is often used in these cases. A large number of cases, between 90 to 95 percent, conclude without
a trial. There are a lot of pleas, but issues of sex offender registration lead to pleas to lower level offenses. The Bronx also has a number of different alternative dispositions, to include civil commitment and treatment programs.

G. Best Practices

1. Investigators find “cognitive reenactments” very useful tools. Take the victim back to the location and have them walk through events. Helps them remember facts.

2. Managing victim expectations up front results in positive relationship building, rather than disappointed victims who lose trust in the system.

3. Holistic defense with in-house investigators, provide an accused with resources to manage the investigation and adjudication, without needless delay.
Jurisdiction: Brooklyn, New York

A. Introduction

Brooklyn, New York, is a borough of New York City. The 2.57 million residents of Brooklyn make up approximately 31% of New York City’s 8.34 million person population. Statistics for violent crimes are not readily available by borough.

B. Law Enforcement

Sexual assault complaints are usually received through a 911 call or because the victim reports to a medical facility for treatment. Victims are not permitted to report directly to the District Attorney (DA). New York Police Department (NYPD) has their own special victim squad to interview the victim and suspect. This squad makes the decision to arrest the suspect. They try to get every suspect interview on video.

C. Prosecution

1. Organization

Since 1992, Brooklyn has operated a separate prosecution unit for sex crimes. There are currently 30 attorneys assigned to this unit, which includes attorneys who prosecute crimes against children. The case load for each attorney is approximately 20 cases post-indictment.

2. Experience and Training

Prior to assignment in the sex crimes unit, lawyers typically have one to one and a half years of experience prosecuting sex related misdemeanors (such as prostitution or “touching” cases) followed by one year at the Grand Jury, then move to felony sex cases. The office encourages experienced litigators but moreover seek prosecutors who present an interest in working in that section.

3. Investigation

Two Assistant District Attorneys (ADA) are assigned to each case with a supervisor sitting in to watch/observe the trial. A separate prosecutor (typically in training) takes the case to Grand Jury prior to indictment and trial. The ADA’s office is willing to call in and fund experts from around the country, subpoena phone records, toxicology reports, DNA, medical evidence and witnesses to support the forensic evidence for trial. They often use cultural/religious experts to assist in explaining victim behavior, like Orthodox Jewish or Islamic experts.

Sexual assault reports are provided to Prosecutors through police channels. Some cases start at hospitals where victims are medically treated. Usually the ADAs work with police officers before probable cause to arrest develops. This is largely accomplished
through an early response on-call program called the “Riding Program.” The on-call ADA will be contacted by the police department for serious sex offenses, such as first degree/forcible rape, crimes against children, etc. This will provide the ADA evidence early on in the investigation and allow them to gather necessary evidence, such as texts messages, cell site info, GPS data, phone records, alternative light sources, etc.

D. Victim Services

New York State has an entire article of law dedicated to serving the interests of crime victims. The Fair Treatment Standards for Crime Victims is contained within Article 23 of the Executive Law. The purpose of that act is to ensure that the State’s criminal justice system has appropriate standards for the treatment of innocent victims of crime. Much of the information contained in Article 23 is explained in OVS’s Rights of Crime Victims in New York State pamphlet which is designed to be an important resource for those who are facing the challenges associated with being a crime victim; it is an excellent source of information on victims’ rights relating to judicial proceedings, victim impact statements, restitution and more. The pamphlet itself is remarkably thorough, and addresses specific rights for victims of sex crimes separately from general crimes.

The Brooklyn DA’s office follows what they referred to as “victim-centric” prosecution. The office consults with victims on charging, pleas, and sentencing. They ensure that victim’s decisions are not coerced and that they are informed, but their lack of concurrence does not prevent the DA’s office from prosecuting. The victim is treated like they are really part of the system, give them a voice and a vote. This level of victim empowerment and trust has resulted in positive feedback and increased reporting.

Brooklyn has 25 social workers employed by the prosecutor’s office which is funded by grant dollars. There are also outside victim advocate organizations that are usually there to provide long term victim counseling. Victim’s groups are very active in New York and they are typically non-profit organizations who work well with the ADA’s office. The social workers are typically assigned there. To be part of the ADA’s team, social workers must have a Master’s Degree in Social Work/Bachelors in Social Work (or equivalent counseling field). They are trained in the criminal law process by the ADAs to understand the process well before assisting victims.

There is actually a two-week training program for social workers that include: training by the ADA’s, speakers, sexual assault victim testimonials, shadowing an experienced social worker, and on-the-job-training under a senior social worker who will sign them off when ready.

A social worker will typically meet with a victim within an hour of an offense being reported. Brooklyn is committed to making the entire investigative and prosecutorial process very victim-focused. Social workers use a sensible approach with the victim; they walk them through the process and maintain a relationship throughout the investigation and trial. They are trained to listen to what the victim wants instead of challenging. They keep in touch with the victim through prosecution and provide updates
of the case status. Social workers understand their role in making the victim feel heard and informed throughout the process.

Social workers also conduct crisis counseling and turn over their notes if any *Brady Information* comes up. The Brooklyn DA’s office insists that the prosecution office “has to have trust” with the victim and works to foster that relationship. Since the office focuses on victim care, both the ADA and social worker take responsibility for informing the victim about court dates, adjournment, and relevant rulings/delays.

A victim continues to have contact with the social worker even after trial. An assigned social worker will notify a victim as to jail release, parole, and other notifications. Specifically, Brooklyn has focused on attaining social workers and victim advocates with specialized cultural training to provide services for special pockets of constituents. This practice has led to an increase in crime reporting from communities where stepping forward as a crime victim has traditionally had religious or cultural stigmas attached.

Attorney victim advocates are typically not used. If there is an attorney who represents a victim, they are conscious of their role as a third party and do not interfere in the prosecution or investigation. The attorney normally represents a victim for a civil lawsuit, so getting a conviction for a sex crime is the best interest of their case. The victim’s private attorney normally won’t be permitted to sit in on interviews, but in some of the Ultra-Orthodox Jewish victim cases the civil attorney has been brought in as a victim advocate. Due to their victim-centric approach, Brooklyn DA’s believe that interjecting another attorney into the process is a “horrible” idea.

E. Criminal Procedure

1. Charging Decision

The initial charge of a case is usually decided upon police arrest. There is no written policy on how to review and charge sexual assault cases but based on experience they recommend having victim approval. This includes the victim actively saying what they want, not just a passive signature. In cases where the prosecutors do not believe the victim they will not go forward but they still work to get “sign-off” from the victim. The office does not want to put a victim on the stand and go through a trial if they believe they may lose, however, sometimes the evidence points to go forward despite the potential verdict of not guilty.

2. Grand Jury

Brooklyn’s only form of preliminary hearing is a Grand Jury in which a separate prosecutor will be assigned to the case for the hearing.
3. **Pleas**

   The supervising attorney reviews decisions and makes all formal plea offers. This keeps pleas centralized and uniform. Brooklyn does not make a plea agreement without victim approval.

4. **Sentencing**

   There are sentencing guidelines established. A judge sentences a defendant not a jury. This is completed after a pre-sentence investigation. Sometimes lower level offenses get only probation or a treatment program option.

F. **Best Practices**

   1. Include the victim at all major decision points – from charging to sentencing.

   2. They allow social workers who are fully integrated into the ADA’s office to establish a relationship with the victim.

   3. Attorney development and social worker development are both done under the supervision of senior attorneys/social workers.

   4. Courtroom observation, on-the-job-training, and “close” supervision ensure that new attorneys and social workers learn the right way the first time.

   5. Victim Advocates are trained to recognize “Brady” evidence.
Jurisdiction: Manhattan, New York

A. Introduction

The island of Manhattan, New York, is a borough of New York City. The 1.62 million residents of Manhattan make up approximately 19% of New York City’s 8.34 million population. Statistics for violent crimes are not readily available by borough. Manhattan prides itself on being one of the first units in the country to specialize in sexual assault crimes. Several senior supervisors have more than thirty years’ experience prosecuting sex crimes. In June 2013, the Manhattan sex crimes (adult crimes only) bureau had 130 indictments pending and 72 felony indictments pending trial. There were over 150 investigations pending, many of which would never be charged or result in prosecution.

B. Prosecution Office

1. Organization

Manhattan is unique; its dedicated sex crimes office has a chief and two deputies. The office does not have a dedicated group of prosecutors for sex crimes, but rather draws from a pool of experienced Assistant District Attorneys (ADA) from across the Manhattan District Attorney’s office. While technically aligned under other bureaus for non-sexual felony prosecutions, the ADAs report to the sex crimes bureau chief regarding the sex crime cases. This is done in order to maintain consistency across all prosecutions. Each prosecutor has only one to two sex assault cases at a time.

2. Experience and Training

The ADAs who take cases in the sex crimes office must already have some felony trial experience (the standard is at least four years experience) and must be particularly interested in working on sexual assault cases. They handle these cases in addition to their regular caseload. In addition to initial sex crime prosecution, the office also deals with sex offender registration hearings and prosecution for violations of registration laws.

The Manhattan office also has two “degrees” of paralegal that assist in sex crimes prosecutions. There are career paralegals which stay with the office in a paralegal capacity, and a number of more temporary paralegals who a couple of years past college and are pre-law school. The paralegals receive ethics training and sit in on witness interviews as potential witnesses.

3. Investigation

The sex crimes office also has five investigators. Manhattan also uses its own staff of investigators who are specially trained in areas particular to sexual assault crimes. The office prides itself on its use of electronic evidence (cell phone records, texts, and things like Facebook posts) and DNA evidence. Manhattan is beginning to use “suspect kits”—
kits for the collection of physical evidence from the person of the suspect, an analog to “rape kits.” Through the use of a “riding program,” Manhattan ADAs will become involved with a case early enough that they can help build the case by working alongside investigators to identify and properly preserve evidence at the beginning of a case.\(^1\) The DA’s office reports that it is “critical” to be involved as soon as possible, and they have a good relationship with the sex crimes unit at the NYPD. An attorney who “rides” on a case will likely take the case from start to finish.

The prosecution’s embedded investigators are very experienced and are usually former NYPD officers. ADAs will identify a need for additional investigative services and then involve the in-house investigators. The sex crimes unit is the single biggest user of the High Tech Analysis Unit. The NYPD has the capability to do high tech investigations as well. Unfortunately, the backlog is huge, since every phone is a computer.

Police do not videotape victim interviews. Further, the office (investigators and prosecutors) do not let anyone sit in on interviews. This includes no family, no interpreters, no victim advocates, or victim counsel.

The office also engages in the practice they refer to as “queen for the day.” This practice involves an accused talking to the prosecutors in a forum where the statement will not be used against him if the prosecutors still go forward in the case.

C. Criminal Procedure

1. Charging Decision

The charging decision belongs to the prosecutor, particularly with regard to whether or not a case goes to grand jury. They also have to decide whether to talk to the defendant first, before counsel attaches. NYC is very transitory – sometimes people are only in the city for a day or two, so they have to rush to the grand jury. A defendant may only be held six days before a grand jury hearing.

If they decline to prosecute, they spend a lot of time discussing that with a victim and explaining why the case should not proceed to trial. They do a declination memo/closing memo in declination cases. Then they do a “breakup interview.” They always have a second attorney present for that, but victim advocates are not present. The most common reasons to decline are 1) the victim’s story is not believable (inconsistencies, etc.); 2) the evidence does not support the case (they estimate cases with sufficient reliable evidence at around 5%); 3) post-assault behavior is incomprehensible. They do not embrace the belief that every victim deserves a day in court. Instead each case is evaluated for its evidence.

\(^1\) The “riding program” is popular throughout New York jurisdictions. Typically, the police contact the ADA who is on a pager and responds to pages for serious sex offenses, such as first degree/Forcible rape, crimes against children, etc. This allows ADA’s to start thinking about the evidence early, e.g., getting texts, cell site info, GPS data, phone records, alternative light sources, etc.
2.  *Preliminary Hearing*

New York has a grand jury system. Due to the transient nature of the jurisdiction, grand juries are sometimes rushed. Victims must testify during the grand jury. Despite this, the grand jury is not seen as drastic or a difficult hurdle. They have seen more defendants testifying lately.

3.  *Pleas*

Plea negotiations are informal and they always consult victims during plea negotiations. Victims are always asked about their preferred end-state and that is taken into account throughout the prosecution process. The bureau chief and both deputies review a plea agreement before it is finalized. Approximately 90% of their cases end in plea agreements. To avoid jail, an agreement would have to include a plea to a lesser offense, as all sex crimes require jail time.

D.  *Victim Services*

Manhattan does not have in-house victim advocates. Victim advocate/social work services are provided by legal aid and other community service agencies through hospitals. Local victim advocate units and non-profit organizations maintain an open dialogue with the prosecutors, fostered by the bureau chief and her deputies.

Attorneys for the victim are not provided and are very rarely retained by victims. Attorney victim advocates are typically not used. If there is an attorney who represents a victim, they are conscious of their role as a third party and do not interfere in the prosecution or investigation.

E.  *Public Defender*

Manhattan public defenders are a private organization that bid and was awarded the public defender contract. Each of their 43 attorneys are very senior. The organization uses their own in-house investigators, who are not as intimidating as a defense attorney would be. The organization has their own social workers and experts.

These public defenders have considerable concerns in regard to discovery. They feel due to the laws of New York, discovery is often dropped late and do not believe prosecutors have a firm understanding of what constitutes “Brady” information. Their experience has seen many changes in the prosecution of sexual assault. They have expressed concern that laws such as rape shield tend to erode the “search for truth” that the jury is supposed to engage in. Despite these concerns, they claim a 50% acquittal rate.
F. **Best Practices**

1. Continue to ask the victim about their preferred outcome. Situations can change and it’s good to reaffirm victim participation.

2. Controlled calls or “pretext calls” are done often by the investigators embedded in the prosecution shop. The victim/witness should ask open-ended questions.
Jurisdiction: Queens, New York

A. Introduction

Queens, New York, is a borough of New York City. The most diverse county in the United States, over 250 languages are spoken by its approximately 2.27 million residents, making up approximately 27% of New York City’s 8.34 million person population. Statistics for violent crimes are not readily available by borough.

B. Law Enforcement

Sexual assault reports arrive at the Assistant District Attorney’s (ADA) office through police, though some cases start at hospitals where victims go for medical treatment. Victims are not permitted to report directly to the prosecutor’s office.

Usually a prosecutor will work with officers before probable cause to arrest develops. This collaboration is largely accomplished through the “Riding Program,” an on-call, early response/detection program. Police contact the on-call prosecutor who responds to serious sex offenses, such as first degree/Forcible rape, crimes against children, etc. This will provide the ADA evidence early on in the investigation and allow them to gather necessary evidence, such as texts messages, cell site info, GPS data, phone records, alternative light sources, etc.

In a “Riding Program” case, the prosecutor will arrive at the hospital, meet with the detective, read the detective’s paperwork and get all the background information, and then sit down with the complainant. They will work to establish rapport and put the victim at ease, followed by the forensic interview.

In non-crisis cases, the strong preference is for the victim to come in to the prosecutor’s office to give the interview. Regardless of intake, Special Victim police and prosecutor’s tend to work hand-in-hand and have developed a good working relationship over time. As a case develops, the District Attorney’s (DA) office have investigators in the office who were former special victim’s detectives who conduct follow up as necessary to prosecute a case. In New York, those investigators have the same power as law enforcement does.

C. Prosecution

1. Organization and Experience

Queens has a separate Special Victim’s Bureau established as a sub-entity of the Major Crimes Division, which handles every sexual offense. The Special Victim’s Bureau Chief has been in that office for 30 years. At any given time, a prosecutor will carry approximately 20 indicted cases and 20-35 non-indicted cases still pending investigation. Prosecutors must have a minimum of 10 felony trials prior to
consideration for assignment to the Special Victim’s Bureau and assignment to the Bureau is considered a significant promotion.

This jurisdiction stresses the importance of having prosecutors that want to be there and prosecute these types of cases. As stated by one prosecutor: “to work here and in this area it has to be a handshake.” It is not effective to assign a case to a prosecutor who is neither able nor interested in prosecuting the case.

In addition to their experience, these prosecutors stress a team environment. This environment enables collaborations and learning from each other. Despite their experience they understand that they learn something new in every case. Depending on their schedule, each prosecutor makes a point to watch every case from their office they can.

2. Investigation

In addition to the “riding program” discussed above. Prosecutors and their investigators rely on further investigation to advance their case. They do a lot of controlled or “pretext” telephone calls, typically before arrest. Prosecutors, not the investigators, work with the victims on the phone calls. Due to the large amount of surveillance in New York City, prosecutors benefit from red light cameras. Suspect kits were found to be very helpful as well.

It is ideal to keep the same attorney on a case from complaint to Grand Jury through trial. This also helps evaluate which cases should not be taken to trial.

D. Victim Services

1. Victim Rights

New York State has an entire article of law dedicated to serving the interests of crime victims. The Fair Treatment Standards for Crime Victims is contained within Article 23 of the Executive Law. The purpose of that act is to ensure that the State’s criminal justice system has appropriate standards for the treatment of innocent victims of crime. Much of the information contained in Article 23 is explained in OVS’s Rights of Crime Victims in New York State pamphlet which is designed to be an important resource for those who are facing the challenges associated with being a crime victim; it is an excellent source of information on victims’ rights relating to judicial proceedings, victim impact statements, restitution and more. The pamphlet itself is remarkably thorough, and addresses specific rights for victims of sex crimes separately from general crimes.

2. Victim Advocates

Victim support services are provided through two supporting hospitals that have a Sexual Assault Response Team (SART). The advocates are social workers and prosecutors provide training to the victim advocates at the hospital. They also have
social workers who are co-located in the prosecutor’s office, but are employed by Mount Sinai hospital. Those social workers split their time between the prosecutor’s office and the hospital.

Social Workers are used to provide short term counseling to the victims, both before and after the trial process. They may sit with a victim during the investigation at the hospital to keep them company or accompany them to trial. The social worker may call to notify the victim of a trial date and administrative matters, but the prosecutor, paralegal and/or office staff generally maintains primary responsibility for notification. Prosecutors are the primary communicators with the victim about the progress of the case being that it can take over a year to get to trial. To that end, the prosecutors are also advocates for the victims. Prosecutors attempt to ensure the victim feels like they are being served by the prosecutor, despite what the outcome of the prosecution is. Victims are not provided counsel but may retain counsel at their own expense. Privately retained counsel does not participate in the criminal trial and have no discovery rights.

3. **Victim Legal Counsel**

There is no formal legal counsel program in New York City for victims. On the rare occasions where a victim is represented, Queens’ prosecutors ensure the victim’s counsel know they are not part of the case. Further, they do not participate in interviews or motion practice.

E. **Criminal Procedure**

1. **Charging Decision**

There are written charging protocols but most of the practices are unwritten. Each case involves a review by the Chief or a senior manager. They stated that a huge percentage of cases have no outcome. Attorneys consult with police early on and present to the grand jury, however, the charging decision depends on what the police book a defendant on or what a grand jury indicts a defendant on.

2. **Preliminary Hearing**

Felony cases must be indicted by the grand jury and occur within five days of a suspect being in custody. The victim is required to testify and may include examination by the grand jury members. The standard for an indictment is probable cause.

3. **Pleas**

Plea negotiations may be conducted informally with defense counsel. There is also a weekly courtroom pre-indictment plea negotiation, sometimes referred to as the “marketplace.” Official offers have to come from the division chief and the three supervisors. Once a case is indicted, the offers get less favorable to the defense and sometimes are revoked altogether. Victims are consulted and informed about the pleas,
however they do not make the ultimate decision. Lower level offenses sometimes get alternative treatment options instead of trial.

4. Sentencing

The judge is responsible for all sentencing not a jury. New York has the potential for consecutive sentencing for cases but is maximized at 50 years of time served. They also have treatment options as an alternative to confinement.

F. Best Practices

Post-charging; they use in-house investigators who are former SVU detectives who have the same power as the police to continue case investigation. Prior to arrest it’s a police case. After arrest the DA investigators are used for follow-up.
CURRENT PROGRAM DESCRIPTION

The Crime Victims Assistance Unit (CVAU) is currently staffed by twenty persons: Unit Director; One Deputy Director, One Supervising Crime Victims Advocate; Secretary/Receptionist; three Therapist, one Supervisor/Coordinator for the Bronx Multidisciplinary Team on Child Physical and Sexual Abuse, one Coordinator for the CVAU Satellite Office, one Elder Abuse Coordinator, one Rape Victim Advocate, two Domestic Violence Advocates, one Witness Protection Advocate and six comprehensive Crime Victims Advocates. CVAU hours are Monday through Friday, 8:30 a.m. - 5:30 p.m., with no appointment necessary. The two Domestic Violence Victim Advocates work an evening shift of 3:00 p.m. – 11:00 p.m. CVAU has offices in the above listed locations, to meet the needs of clients at all stages of the court process. Ten staff members are fully bi-lingual in Spanish/English. All services are provided at no cost to the client.

For the most part, victims and witnesses are referred to CVAU by Assistant District Attorneys. These referrals may take place at any stage of a case, but most frequently occur at the time of the victim's initial contact with the District Attorney's Office, either at the time the case is written up in the complaint room, the Grand Jury, or at the time of their first court appearance.

CVAU also receives referrals from many other sources including the New York City Police Department, Hospitals, Public Assistance Job Centers and other public and private agencies. Additionally, many referrals come from former "clients" or are prompted by the community's awareness of our existence. It is not necessary for there to have been an
arrest or police report for a victim to be seen by CVAU staff. Although CVAU serves primarily victims and witnesses of felony crimes involving sexual assault, domestic violence, and homicide, any crime victim may contact us for screening and referral to the appropriate service agency.

CVAU addresses the emotional and concrete needs of each client through a combination of supportive counseling, other direct services and referrals. Following an interview in which the victim is asked to state their needs concerns, and personal resources, a plan is developed that may include both direct services and referrals to other agencies. Although some clients may need only a single appointment, generally a client has multiple needs and therefore numerous contacts and services are provided. Follow-up conferences may be either by appointment or walk-in. Follow-up does not terminate with the final disposition of the case, but continues until the client's needs have been satisfied.

All of the services offered by CVAU may be performed by the Unit Director and/or any of the Victim Advocates. The CVAU Secretary/Receptionist (in addition to the duties implied by her title) can arrange transportation and provide some basic court information for clients.

The services listed and described below are the major categories of assistance offered by CVAU:

**Court Information/Case Notification/Case Status**

One of the most common and most important services offered is explaining the "system" to the complainant (victim). The language, the process and complainant's role may not only be a mystery but the survivor may also have fears and expectations based on misapprehensions and misinformation about the criminal justice system. Procedures and concepts which may seem obvious to Assistant District Attorneys and others in the Law Enforcement field are explained in lay terms by CVAU staff, in person and through the distribution of appropriate printed materials (available in both English and Spanish). CVAU will also assist in providing information regarding case status, notification of court appearances, and case dispositions. While this is done informally, on a case by case basis by CVAU, the Witness Notification Unit (WNU) of the Bronx District Attorney's Office systematically advises victims of their case status and its final disposition. CVAU Advocates inform each and every victim seen about the VINE (Victim Information Notification Everyday) System. Crime Victims can obtain crime and release data on all prison inmates by calling the VINE toll free number. Once an offender has been booked into custody at a Department of Corrections Facility, victims and their family members can call the toll free VINE number to access custody information and register to receive automatic telephone notification of an offender's release. CVAU Advocates assist victims with this registration.
Professional Victims Counseling

CVAU advocates refer victims, witnesses and others (family members, partners) to a variety of professional counseling programs that address the individual traumas and other emotional issues that arise from victimization. Special effort is made to ensure that survivors of sexual assault, domestic violence, child and elder abuse, and the families of homicide victims receive both the referrals and the reassurance of support from CVAU staff that will encourage them to pursue the specialized help available. CVAU has expanded the unit’s services and now offers on site individual and group therapy services. In January 1998, CVAU hired a trained Sexual Assault Therapist and instituted the Sexual Assault Intervention Program to provide on site short and long term therapy for adult sexual assault survivors. In December 1998 CVAU further expanded the Sexual Assault Intervention Program and hired an additional full time therapist expanding therapy for all violent crimes. In March 1999 CVAU along with the Safe Horizon, Families of Homicide Victims Program initiated the Bronx Homicide Support Project. This psychotherapy group model offers a 14 week support group for homicide survivors. In 2006, CVAU hired an additional therapist to work with Domestic Violence Survivors. This therapist provides individual therapy to survivors but also goes out into the community and provides six week educational/support groups to different populations on Healthy vs. Unhealthy Relationships. CVAU’s goal in offering this service is to hopefully prevent violence in intimate partner relationships.

CVAU also provides a number of specially purchased support materials for sexual assault, domestic violence and child abuse survivors.

Crisis Intervention and Supportive Counseling

If a crisis is "a decisive or critical moment" (as Merriam-Webster tells us) then Crisis Intervention means addressing the needs of an individual who is experiencing that critical moment. The criminal justice process subjects the victim to many such moments. The client's needs may be for physical reassurance; a held hand, tissues for tears, or a safe place to yell or cry and to discharge fear or anger. Often the needs are for an informed and informing individual's presence, assisting with an explanation of the "normality" of the traumatic response, the assurance that unexpected feelings are "O.K." and not "crazy" and preparing the survivors for their own reactions and those of others around them.

Supportive Counseling is an extension of the care offered during a crisis. CVAU advocates are trained to have a basic knowledge of victim reactions and recovery patterns (e.g., Rape Trauma Syndrome, the "learned helplessness" of Domestic Violence victims, etc.) and to combine this knowledge with common sense and their practical experience in order to offer appropriate support at all stages of the case.

N.Y.S. Crime Victims Board Applications and Advocacy
CVAU help claimants with claim applications, claimant affidavits and assembly of supporting documents required by the New York State Crime Victims Board and regularly makes referrals for emergency awards. CVAU staff will also provide follow-up assistance and advocacy with the Crime Victims Board when needed.

Court Accompaniment

CVAU advocates often establish a relationship of such trust and support with a victim and the victim's family members that their presence during trial testimony provides significant reassurance. This can be especially true when other family members are absent or are also witnesses and therefore unable to be present in the courtroom. We frequently provide court accompaniment in domestic violence, sexual assault (especially for child victims) and homicide cases. This service requires the greatest commitment of staff hours but we believe that it has the greatest comfort for the victim and/or the family members of the victim.

Witness Protection/Relocation Assistance/Shelter Hotel/Motel Placements

Where there is a grave danger or great trauma for the victim or witness in their home, CVAU assists with emergency relocation, hotel/motel and shelter placements. Relocations are achieved with difficulty because of the almost total absence of available low and middle income housing in New York City. CVAU employs a Witness Protection Advocate who uses a variety of means when attempting to do relocations in the New York City Metropolitan area and out-of-state relocations. They include cooperation and advocacy efforts with public housing, other prosecutor based victim/witness programs and other law enforcement agencies. CVAU is often successful in its advocacy with the Human Resources Administration for necessary security deposits and other relocation costs.

Additional Services

CVAU provides Transportation in the form of a taxi, ambulance or ambulette when necessary for court appearances. Dignity monies (petty cash) are maintained for emergency needs in all locations. Advocacy Services with Public Assistance, Law Enforcement and a client's employer, creditor or school are provided. CVAU advocates with Housing, Medicaid and other entitlement programs.

CVAU has a wheelchair and a cot available in each courthouse. CVAU has a number of toys and books for children as well as children's desk and chair sets. CVAU offers assistance to victims with special property releases and aides in the replacement of stolen documents. CVAU makes every effort to be as varied in our responses as are the needs of the survivors.
Community Outreach/Educational Presentation

Members of CVAU are available to speak to organizations, community groups and at various events throughout the year. As part of the regular training, CVAU participates in the orientation lecture series for new Assistant District Attorneys and does ongoing training on Victim Entitlements, Fair Treatment Standards and victims in the court process.

CVAU shares materials and information with many other victim programs and enjoys a close and supportive relationship with other victim service providers in the Bronx, New York City and around the State. CVAU is a member of the Bronx Multi-disciplinary Team on Child Physical and Sexual Abuse, the Bronx Task Force on Adolescent and Adult Sexual Assault, the New York City Alliance Against Sexual Assault, the New York State Coalition Against Sexual Assault, and the Downstate Coalition for Crime Victims.
Bronx District Attorney’s
Crime Victims Assistance Unit
Therapy Program

The Crime Victims Assistance Unit Therapy Program began in 1997 as the emotional impact of crime related trauma or victimization was seen as a need that required specific attention. The emotional scars of victimization left clients with symptoms and experiences bespeaking of Post Traumatic Stress Disorder.

It would seem fitting then that the profession of Social Work would be in a position to assess the needs of individuals who are victimized and as such, present the crisis of victimization and its related clinical impact of trauma as well as the psychosocial stressors presented above. Social Work, more specifically, clinical Social Work in particular, has traditionally and historically aided and intervened with those in need of relief of social ill that is both the effect and cause in the cycle of violence and poverty in our community. The impact and crisis of victimizations such as sexual assault, homicide and abuse has certainly been documented to have both short and long term consequences especially where no intervention is provided. Clients that present with these issues who come to the attention of the criminal justice system; (that until recently has been historically focused on the rights of the perpetrator) arrive either being disconnected from or hence being introduced to social supports necessary for resilience.

Clinical Social Workers therefore are the make up of the staff at CVAU’s therapy program. To complement and work in association with our advocacy team, the clinical social workers provide assessment and treatment for those victims who are suffering from anxiety and depressive related pain associated with their victimization or the victimization of their family members. Other related and compounding psychosocial stressors are assumed as well, and when necessary appropriate referrals and linkages or reconnection to community resources are made. The age group that the unit is designed for are those aged 16 and up. The therapy unit coordinates with an in-house located agency to provide interventions for children. The modalities of treatment/counseling at the unit include individual, family and group methods. All clients meet with a therapist for an intake, at which time our initial assessment is conducted. Referrals are made from community agencies, ADA’s and Advocates or other victim for the most part.

The clinical staff is comprised of three bi-lingual women; 1 LCSW, 1 LMSW and one recent graduate awaiting her LMSW exam. The latter worker previously worked at CVAU as an advocate for 3 years prior to furthering her education to become a master’s level social worker. The supervisor of the clinical team is an LCSW ACSW who has been in practice for 28 years. In addition to providing the modalities mentioned above, primary prevention - community outreach work is also conducted by the unit’s supervisor and director as well as the therapists. This includes providing sexual assault education and Boys Council/Girls Circle programming in a community school as well as community centers.
tive to the subject of rape and more aware of the frequency of sexual violence.

Eating and sleeping problems may also return. Nightmares are common. They may change from unsuccessful attempts to escape to being in control of the rape situation. Violent fantasies of revenge toward the assailant in dreams are also common and can be frightening. The expression of anger in dreams does not mean you are becoming a violent person, but indicates you are regaining control.

Some survivors find that it eases their mind to take some kind of action. We all have ways of dealing with stressful situations; you can use the same skills that have helped you through other difficult problems. You might also develop new ways of getting through a difficult time.

You may continue to be afraid long after the initial shock has faded. Fear is a healthy response to being threatened or betrayed. If the assailant was someone you knew, feelings of betrayal may make you fearful of trusting others. If the assailant was a stranger, you can expect to feel angry for a number of reasons. Your anger may be toward the person who hurt you. You might feel bitter at the injustice, or feel as though you've been abandoned by God. It may seem that the situation is out of your hands. Sometimes anger and fear work together which may make you wary of other people, as though you are expecting the rapist to be everywhere. Much of your anger may also be directed at yourself and others around you.

There may be times when you are preoccupied with matters related to the assault; later you may be surprised to notice that you haven't thought of it for awhile. This is an ongoing process. Although you can't change what has happened, there are ways of integrating the assault into your life experience. You probably will relate differently to people now. You may be more aware than others of the need for respect and caring between people particularly in sexual relationships. Your increased sensitivity to coercion or force may change your sexual response. You may have mixed feelings about intimacy and control, especially in any sexual relationship.

Recovery from a sexual assault is a lengthy process; the passage of time lessens the pain. Having difficulty does not mean you have developed serious mental or emotional problems. People recover from sexual assaults as they recover from other crises. In the course of reorganizing their lives, some women become more sure of their own strengths and more confident in the power of the healing process. Remember, your feelings and experiences are not abnormal -- you are not alone.

If you have never talked with anyone about what happened, you may decide that this is a good time to begin.

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Sexual Assault
Resource Center
PO Box 300, Renton, WA, 98057,
Sexual assault can happen to anyone.

Many of us have been victims of rape and other sexual assaults; you are not alone. It is important to remember that it is not your fault; no matter what the circumstances, you did not deserve to be raped.

Sexual assault is difficult to think about, much less talk about. If you have been assaulted, you will probably be reading this after the immediate feelings — shock, disbelief, fear — have faded. You may be feeling upset and confused.

A sexual assault creates a crisis — both for you and the people closest to you. People handle crises in a variety of ways. (There is not only one right way.)

Some survivors openly express their feelings in response to a sexual assault while others are more comfortable with controlling their feelings. You may need to seek someone you trust to talk with right away. This may help sort things out so you feel better. Or it may be that talking about the assault is difficult for you and makes you feel restless and tense. You may choose not to express your feelings at this time. By acting calm and composed (even though you are upset) you may feel better and more in control.

You may experience many different emotional and physical reactions as a result of the assault. Nausea may result from just thinking about the assault. For survivors who are women if you have taken the morning-after-treatment (MAT) this may contribute to your feeling nauseous. You may notice that your appetite has decreased or your food may not taste right, or your stomach may be upset.

Nightmares and crying out in your sleep may be very frightening but are not abnormal. Difficulty in getting to sleep or waking up in the night and being unable to get back to sleep are also common. A couple of days without a good night's sleep can be very trying and will probably increase your irritability and stress. Fatigue and depression may also bring on a general soreness all over your body and a susceptibility to illness.

Some survivors find that a medical examination can reassure them that they are okay, even if there is no obvious physical injury.

You may be very confused and feel that your life is disorganized. You may have difficulty solving problems or making decisions. Though you may feel that there are too many things on your mind right now, remember that this is a time to take special care of yourself. You might want to do something that comforts you such as making your house more secure or spending time with people who care about you. Physical comforts may also help. Remember not to be hard on yourself and to take each day as it comes.

There will be times when you feel fine. It will seem that things are going well and you are handling the crisis in the best possible way. The next moment, however, you may find yourself in tears for no apparent reason. Crying spells may worry you but are a good way of releasing tension. Because of the intensity of these feelings, you might experience wide mood swings. As a result you may be short-tempered with the people you care most about.

It is likely that you have heard statements which blame victims of rape for what happened — "She asked for it," or "It happened because..." Such remarks can make you feel humiliated and ashamed. Your reaction might also be a feeling of guilt; you might begin to blame and question yourself about what you should or should not have done to avoid being raped; it is important to remind yourself that the responsibility lies only with the rapist.

You may have your own set of rules about safety. We've been led to believe that being careful will protect us from a sexual assault; so if we break the rules, we believe we are to blame. This is not true. Unfortunately there are no guarantees that a sexual assault won't occur. Unfair things happen to people who do not deserve them. The unfairness may trouble you for some time.

With time the fear and confusion will lessen.

You may find yourself wanting to forget the assault ever happened and avoiding any discussion of it as well. Some people make major changes in their lives at this time; others resume usual activities.

As you begin to feel that you are back in control of things, you may suddenly be reminded of the assault. This reminder can come weeks, months or even years after the assault. You may feel depressed, anxious and fearful again. Seeing someone who looks like the assailant or receiving a court subpoena can trigger your previous emotional upset. You may develop specific fears related to details of the assault, and have powerful reactions to particular smells, sights or sounds which remind you of what happened. You may be more sensi-
To speak with a therapist or for more information on our Sexual Assault Intervention Program, please call (718) 838-7012.

This program is partially funded by the NY State Office for Victim Services.

Bronx D.A. Website
www.bronxda.nyc.gov
If you have been forced to have sex by a stranger, acquaintance, a relative or a date, or if someone you know or love has been assaulted, please read this brochure.

It's hard to believe when sexual assault happens to you, especially when the attacker is someone you know. But understand this: You have been assaulted. It was not your fault and you are not alone. You have survived the assault.

And "survived" is the right word. Sexual assault is a life threatening experience. Don't try to tough it alone -- getting help is not a sign of weakness. In the long run, talking to someone about the assault will give you greater strength and help you recover more quickly and more completely.

Survivors often benefit from talking with a professional counselor. The Crime Victims Assistance Unit of the Bronx District Attorney's Office has established the Sexual Assault Intervention Program (SAIP). We offer this service free of charge to rape and sexual assault survivors.

If you were the victim of a sexual assault that occurred years ago, and never talked to anyone about it, you may want to do so now. Our specialized therapists offer supportive counseling to sexual assault survivors no matter when the incident occurred. It's important for you to understand your experience and your emotional reactions in order to move beyond the impact of the trauma and to feel better.

After you have survived the assault, an intensely personal process begins for you: to recover, take back control of your body and your life, and perhaps even forge a stronger identity as a result of your experience.

Survivors often need information and support to resolve the initial fears and anxieties that many experience and to help them avoid developing long-term problems associated with rape and sexual assault.

WORKING WITH THE CRIMINAL JUSTICE SYSTEM

Working with the Assistant District Attorney regarding your case is important. To be interviewed repeatedly about what happened to you can be exhausting and emotional. Preparing to testify when your case is ready for trial can also be stressful. It is just as important to pay attention to your feelings. It is common for many survivors to feel increased stress and anxiety while working with the criminal justice system despite the knowledge of how important it may be to do so.

We would like to provide support for you throughout this process. We believe that survivors of sexual assault need an opportunity to explore the full range of their emotions in response to the trauma. Having someone to talk to about these feelings immediately following the assault and throughout the criminal justice process will help you along the road to recovery. Of course, the decision to attend the Sexual Assault Intervention Program is yours to make.

ADDITIONAL REFERRALS

How much counseling is enough? Only you can decide if you want to get help in working through the often-painful stages of emotional and physical recovery. For some survivors counseling right after the assault may be enough. Others may wish to talk with a therapist for a longer time. You are the best judge of how you are coping and you can decide how long you want to continue in counseling. We can help you determine what your needs are and how you can best take care of yourself.

If you would prefer to receive counseling in a different location perhaps closer to your home, then assistance with referrals will be provided.
WHAT SERVICES DO WE PROVIDE?

Our caring staff can help you with:

- Crisis Intervention
- Criminal Justice Advocacy
- Court Accompaniment
- New York State Office of Victims Services (assistance with application for compensation)
- Emergency Placement
- Individual & Group Counseling
- Information & Referrals
- Community Education & Training

IMPORTANT POINTS TO REMEMBER

- If you are a victim of a crime you are not to blame
- If you are suffering, because of a crime: IT IS NOT YOUR FAULT
- There are others who have similar experiences, you are not alone.

YOU HAVE RIGHTS

- The right to participate
- The right to be free from intimidation & harassment
- The right to be present and informed of all proceedings
- The right to be heard
- The right to compensation & restitution
- The right to be treated with dignity respect

Bi-lingual Services
Are Available
All Services are Free of Charge

CRIME VICTIMS

HAVE THE RIGHT TO...

Access
Trust
Information
Hope
Counseling
Respect
Referrals
Advocacy
Compassion

OFFICE OF THE
BRONX DISTRICT ATTORNEY
CRIME VICTIMS ASSISTANCE UNIT
SATELLITE OFFICE
4101 WHITE PLAINS ROAD
BRONX, NY 10466
(718) 798-5992
If you have been a victim of a crime you may experience physical, financial and/or emotional problems as a result of the crime.

Working with the police and/or the assistant district attorney regarding your case is important. To be interviewed about what happened to you can be exhausting and emotional. Preparing to testify when your case is ready for trial can be stressful.

It is common for many survivors to feel increased stress and anxiety while working with the criminal justice system despite the knowledge of how important it may be to do so.

It is important to know that you don't have to go through it alone. HELP is available.

The Bronx District Attorney's Office has a Satellite Crime Victims Assistance Unit right in your own neighborhood.

OUR MISSION is to address the needs of Crime Victims in the Northeast Bronx by providing a trusting, compassionate, accessible and professional staff that will foster change, self-perception and growth after victimization. Our office is a clearing house and resource center for victims, their family members and the community.

WHO DO WE SERVE:

- Identity Theft Victims
- Robbery Victims
- Burglarly Victims
- Assault Victims
- Child Victims
- Domestic Violence Victims
- Sexual Assault Victims
- Loved Ones of Homicide Victims
- Elder Abuse Victims
- Disabled Crime Victims
- Any Victim Who Lives in Community Board 12 District
- You Do Not Have to a Case Being Prosecuted With the Bronx DA's Office
Other Bureaus and Units of The Bronx District Attorney's Office

General Crimes Division

Intake
In New York State, after a case is evaluated by the District Attorney's Office and a determination is made that it is appropriate to proceed with the prosecution, any trial of a felony charge requires a Grand Jury to vote an indictment charging the defendant with the felony charge or charges, or specific waiver of the Grand Jury action by the defendant. The Grand Jury is empowered to hear evidence and then determine if an indictment should be had, the case dismissed or that the case should be prosecuted as a misdemeanor. This bureau is responsible for coordinating the prosecution of most cases from the complaint room through the Grand Jury presentation.

Trial Division
Felony case trials are held in the Supreme Courts of New York State. The Trial Division is responsible for the trial prosecution of a wide range of felony offenses, including homicides, assaults, robberies, burglaries and weapons possession. In addition to these trial responsibilities, members of this division are also charged with the duty of presenting certain cases to the Grand Jury.

Appeals Bureau
The primary responsibility of the Appeals Bureau is litigation in the higher courts of the state and at all levels in the federal judicial system. Aside from prosecuting all of the Office's appeals, the bureau also litigates whether defendants who have been found not responsible by reason of insanity at trial are ready for release from psychiatric hospitalization.

Asset Forfeiture
This unit works primarily with the Narcotics Bureau to ensure that drug offenders do not profit from their activity. The Asset Forfeiture Unit prosecutes civil actions to deprive criminal defendants of the profits of their crimes, and uses the forfeited funds for the public good. Under New York State Law, a significant portion of all seized assets must be distributed to the New York State Office of Alcohol and Substance Abuse Services for drug treatment programs.

Office Website
www.bronxda.nyc.gov
The office has extended its community outreach by going online with an informative website. This site is organized into four basic areas: "About the Office", "Fighting Crime", "Press Releases" and "Community Outreach."
Community Affairs Unit
Barbara Robles-Gonzalez, Director
718-590-2272
The Community Affairs Unit serves as a liaison between the District Attorney and the Bronx community. This task is accomplished by developing and coordinating office programs involving Bronx residents and by taking an active approach to community relations. This office also coordinates many interagency initiatives and all community outreach efforts.

Criminal Court Bureau
Nellie Velaz, Chief
718-590-2057
The Criminal Court Bureau is responsible for the prosecution of misdemeanor and lesser offenses in Criminal Court. The bureau also works closely with the local police precincts to respond to quality of life conditions, such as prostitution, illegal sale of marijuana and unlicensed peddlers that are disturbing to community residents.

Narcotics Bureau
Nestor Ferreiro, Jr., Chief
718-590-2133
This bureau investigates and prosecutes all felony cases involving the illegal possession and sale of controlled substances, including heroin and crack cocaine.

Narcotics Evictions Program
Lisa Waller, Supervisor
718-590-2425
The Narcotics Evictions Program is responsible for assisting landlords evict tenants who use their apartments or commercial premises for illegal trade or business, namely the sale or possession of narcotic substances. Assistant District Attorneys work closely with landlords, community groups, tenant organizations, and other city agencies to clean up narcotics activity in apartment buildings and commercial establishments based upon criminal narcotics arrests. This unit holds the tenant of record civilly responsible for criminal acts that occur in their premises. The ultimate goal of the Narcotics Evictions Unit is to rid these premises of narcotics activity via the civil court system so that law-abiding citizens can live in a drug-free environment.

Investigations Division
718-590-2040
The Investigations Division consists of two bureaus and one unit, the Rackets Bureau, the Economic Crime Bureau and the Citizen Complaint Unit. Both bureaus are responsible for combating a wide variety of offenses including organized crime, extortion, gambling, auto crime, arson, economic crime, welfare fraud and official corruption.

Citizen Complaint Unit
718-590-2130
This unit serves as liaison to the community by receiving and investigating citizen complaints. In matters where criminal jurisdiction is inappropriate, the unit serves as a referral agency to other organizations and agencies.

Auto Crime
William Zelenka, Deputy Chief
718-590-2412
Auto Theft Hotline 718-590-CARS
Auto Crimes investigates and prosecutes cases involving the theft of automobiles, their parts, and the documentation relating to their ownership and transfer. This bureau also works with specialized units of the New York City Police Department to target organized groups that steal, dismantle and export stolen cars. The auto theft hotline receives confidential information from the community on stolen cars, "chop shop" locations and illegal documentation.

Bias Unit
718-590-BIAS
This unit is responsible for investigating and prosecuting crimes committed against individuals, which are motivated by race, ethnicity, sexual orientation, gender or age. Through its special telephone hotline, 718-590-BIAS, the unit is equipped to receive calls at any time.

Domestic Violence
Child Abuse/Sex Crimes Bureaus
Joseph Muroff, Chief of Child Abuse/Sex Crimes
718-590-2195
Penny Santanna, Chief of Domestic Violence
718-590-6648
These bureaus investigate and prosecute all felonies and misdemeanors involving child abuse, sex crimes or domestic violence. Social workers and counselors from the Office's Crime Victims' Assistance Unit work closely with attorneys to provide victims with needed support.

Detective Investigators
D.I. Frank I. Chiara, Chief
718-590-2050
This unit consists of approximately 35 police officers who work specifically for the District Attorney. The main function of the unit is to work hand and hand with the Office to enhance or assist with the prosecution of cases. The Unit also conducts pro-active investigations on a variety of crimes, such as white-collar crimes, auto-crimes, elder abuse, child abuse, gang investigations, narcotics, gun investigations and any other crimes which may be occurring in the Bronx.

Crime Victims Assistance Unit
Beth Ann Holzahy, Director
718-590-2115
This unit provides Bronx crime victims with a wide variety of services including, but not limited to, the following: emotional supportive services, client advocacy services, emergency assistance, application assistance, court accompaniment, transportation services, information, counseling and referrals.

Elder Abuse Initiative
Ellen Kolodney, Coordinator
718-590-2260
The Bronx District Attorney's Office has partnered with the Hebrew Home for the Aged at Riverdale and the Bronx Office of Adult Protective Services to form the Elder Abuse Initiative and Multi-Disciplinary Task Force to serve the law enforcement, social service and senior community. To heighten public awareness and prevention strategies, we provide lectures, attend health and information fairs and disseminate educational materials on elder abuse. Direct access to our coordinator is encouraged for individual concerns and assistance.

Gang Prosecution/Major Case Bureau
Edward Talty, Chief
718-590-2231
This unit prosecutes and investigates all gang related crimes, from individual to group activities involving any acts of violence by gang members.

Appendix K-10 - JSC-SAS Jurisdictional Documentation - New York
Jurisdiction: Multnomah and Yamhill Counties, Oregon

A. Introduction

The JSC-SAS met with individuals involved in the investigation and prosecution of sexual assaults from two Oregon counties. Multnomah County has a population of about 735,000 and includes the city of Portland, the state’s largest city. The Multnomah County District Attorney’s Office has a staff of about 200, including 70 Deputy District Attorneys. Yamhill County is located in the Willamette Valley region of Oregon, and has a considerably smaller population (99,000). Neither county is host to a military installation.

B. Law Enforcement

1. Organization

In Multnomah County, several different law enforcement agencies present cases to the District Attorney’s Office. The Portland Police Department has a separate Sexual Assault Bureau, but not every agency does. The detective position in Portland PD is a competitive one, and officers test for it to qualify. They will then begin with a probationary period, to determine where they’re best suited to work.

Coordination between the Office and detectives varies by agency. In some cases, contact with the District Attorney’s Office will begin while the victim is still at the hospital; in other cases the investigating officer will provide a report when the investigation is complete.

The Multnomah County District Attorney’s Office has a Multi-disciplinary Team to investigate physical and sexual abuse of children by a family member(s). A detective is part of the MDT.

Until budget constraints ended it, a prosecutor was co-located with the Portland Police Department. While detectives are permitted to sit at the prosecutor’s table at trial, it is typically only done in complex cases.

There are two victim advocates who work for the police department. They primarily deal with cases that are not going to be sent to the prosecutor’s office for charging review.

In Yamhill County where there are fewer detectives, prosecutors work closely with law enforcement detectives. It is typically the case that the case detective sits with the prosecutor at trial.

2. Investigation

Under Oregon law, if a suspect is interviewed in a police facility in custody, the statement must be video recorded. Suspect interviews done in the field are audio taped.
Generally, adult victims are not recorded in Multnomah County, but they frequently will be in Yamhill County.

It is not unusual to have some criminal conduct by the victim (drugs, alcohol, or prostitution) at the time of the sexual assault. The general policy is to focus on the greater crime, not the lesser crime of the victim. Victims are told it is important to tell the truth. In most cases, while the prosecutor and police will tell the victim they are not particularly concerned about the misconduct, there will not be a formal immunity agreement. For the most part, in both Yamhill and Multnomah counties, victims are not prosecuted for crimes committed that are incident to the sexual assault.

Law enforcement has the discretion to close a case (non-refer) without sending it to a prosecutor to review, but will often do so.

3. Audit/Review

The Portland Police Department underwent an audit 2007 to evaluate the way sexual assault cases were investigated and closed. The audit report is attached at Appendix L-1.

C. Prosecutors

1. Organization

The Multnomah County District Attorney’s Office is organized into three large divisions, each of which is divided into smaller specialized units. This allows prosecutors within each division to focus on particular types of criminal activity and develop an expertise in investigating and prosecuting defendants charged with those types of offenses. One of these divisions has a specialty unit that prosecutes adult sex crimes, along with other felony assaults. Another division has a specialty unit that is a multidisciplinary unit, prosecuting inter-family physical and sexual abuse of children. The MDT includes a prosecutor, detective, and social worker.

Multnomah County has a 7.5 person office of victim services to provide support for all felony person crimes and domestic crimes referred to the District Attorney’s Office. They also work with volunteers and outside agencies to provide victim services.

The Yamhill County District Attorney’s Office has a specialized unit for prosecuting child sex crimes, but not one for prosecuting sex crimes against adults. There are 10 prosecutors in the office, including the District Attorney. Two district attorneys prosecute all adult felony, and there are two prosecutors assigned to prosecute cases with child victims. However, the homicide and child sexual assault cases are assigned on a rotating basis. Victim advocates also support the prosecution in Yamhill County. The Department of Justice provided funding to assist with victim advocate services being provided at the District Attorney’s Office in the past 10 years.
2. **Experience and Training**

In Multnomah County, new prosecutors start in the Misdemeanor Trial Unit, where they will spend from 6 months to one year, followed by 2-3 years in the Misdemeanor Intake Unit, Domestic Violence Misdemeanor Unit, and Civil Commitment Unit. The prosecutor will then move to a Felony Trial Division for 2-6 years, prosecuting property or drug crimes. These crimes are prosecuted horizontally (meaning that a different attorney may be involved at various case stages). The prosecutor is then eligible to move to one of the person crime units, which are prosecuted vertically (meaning the prosecutor will be assigned until final case disposition).

The length of time a prosecutor will stay in a person crimes unit varies. Some stay 5-10 years, others rotate earlier. It is driven in part by the needs of the Office, and the preference of the prosecutor.

The senior deputies who lead the units all have a smaller caseload consisting of the more serious cases. Unit leads are consulted on charging decisions in major cases and for major felonies, every plea offer and disposition must be approved by the Division’s Chief Deputy.

The Yamhill County District Attorney’s Office hires both experienced and inexperienced attorneys. Typically new hires will begin by prosecuting misdemeanors and move up to felony cases. There are two misdemeanor prosecutors, and two who handle juvenile cases. After being hired, prosecutors attend a basic prosecutor course, and then attend training sponsored by the US Department of Justice. Prosecutors will also attend the annual Oregon District Attorney conference and attend other specialized training if time and budget permits.

Although the Office does not specify that a prosecutor has to have a certain amount of time in the office before being assigned a sex crime case, assignment in such cases is based on the judgment of senior attorneys that the prosecutor is ready.

3. **Sexual Assault Response Team (SART)**

There is a SART in Portland. Members include representatives all police agencies, the District Attorney’s Office, three colleges, nonprofits, SANE, and Rape Crisis Center advocates. Portland has a roving SANE program, where a nurse examiner is available at every hospital, either by being on staff, or part of a contract SANE program where a nurse examiner will respond when called. In addition to other certifications and training, the Multnomah County District Attorney’s Office provides training for SANE nurse examiners, including mock trials where the SANE provides testimony and is cross-examined.

4. **Surveys**

Victim advocates from the Multnomah County District Attorney Office send out surveys to victims after every sexual assault case (among others) is completed. They report that it is
difficult to find the right time to do so, and a somewhat uncomfortable process. There is about a 10% return rate altogether.

Yamhill County victim advocates also send out surveys at the conclusion of a case. They ask only three questions:

1) The services provided by the Victims Assistance Program helped me make informed choices about my situation.

2) As a result of the information I received from the Victim Assistance Program, I better understand my rights as a victim of crime.

3) The information given to me by the Victim Assistance Program helped me better understand the criminal justice system as it relates to my case.

The answer options are Strongly Agree, Agree, Disagree, Strongly Disagree, and Neutral.

The office also uses other means of measuring satisfaction, including talking with victims and getting anecdotal stories from victims about how they feel regarding treatment in their case.

5. Anonymous/restricted reporting

Neither Multnomah nor Yamhill County prosecutors reported that there are procedures for victims to report without having police intervention. However, they both reported that in most cases, the decision to charge a case or go to trial is based in large part on the victim’s desires or wishes. However, they reported that Ashland County has started an anonymous reporting system for victims of sexual assault. Additional information regarding this program can be found at 222.Ashland.or.us. The program is, “you have Options Sexual Assault Reporting.”

D. Victim Services

1. Victim Advocates – Prosecution based

In Multnomah County, the District Attorney’s Office has 7.5 victim advocates supporting victims in all types of felony person crimes and domestic violence cases. There are an additional 62 volunteer advocates. The primary goal of the victim advocate program is to make the criminal justice system more responsive to victims of crime. The Office philosophy is that every effort should be made to maximize victim involvement at every possible stage of a criminal case. The Office is committed to full implementation of Victim Rights as embodied in Oregon law. Victim Advocates advise victims of their rights, and file a notice in court of which rights the victim wishes to invoke (as required by law to invoke certain rights). The Victim Advocate from the prosecutor’s office will also assist the victim through the grand jury process, and is typically the first to meet face to face with the victim. In addition, advocates ensure that victims are
notified of all hearings, including bail hearings, plea hearings and sentencing hearings where victims typically attend. Victim advocates accompany victims to these hearings, and will also ensure that at least one advocate (from either the D.A. Office, a community advocate, or both) are with the victim during trial.

In addition, the Portland Police Department has two victim advocates who primarily deal with victims whose cases will ultimately not be referred to the District Attorney’s Office for charging. Once a case has been referred to the District Attorney’s Office and a Grand Jury has been convened, a victim advocate from that Office will assume responsibility for the victim.

In most Oregon jurisdictions, there are no police based victim advocates. This creates a gap in the system for victims from the time of the initial report until the police report goes to the District Attorney’s Office and the case is charged.

In Multnomah County, a victim advocate will meet the victim at the hospital or the scene, when contacted by law enforcement. They provide information to the victim about the medical examination and law enforcement interview. If the victim wants to ‘non-report,’ the responding advocate will usually be a volunteer (e.g., from a nonprofit). (A victim can get a SANE exam but decide to ‘non-report’ in which case a victim advocate from a rape crisis center would provide victim advocate services, since the case will not be referred for prosecution.)

In Yamhill County, victim advocates work for the District Attorney’s Office. They all attend a 4-day victim advocate training. They also use web-based training and law enforcement sponsored training.

These victim advocates will respond to the crime scene or hospital when a victim reports a sex offense, even if they want to remain anonymous. (Note: victim advocates from the District Attorney’s Office will only become involved if the case is reported to the police, or the victim reports to the hospital.) The victim advocate will often see something(s) the prosecutor would want done for the investigation. They also sit in on victim interviews with the detective. The victim advocate has considerable authority to pursue rights for the victim with the prosecutor and court. They are independent and will advocate for the victim even if it means disagreeing with the prosecutor.

Victim advocate services are provided on a 24 hour basis. Victim advocates in Yamhill County regularly provide the following services:

- Contact on emergent and cold cases when police are called to a location
- Court accompaniment
- Victim services/counseling
- Assistance obtaining sexual assault restraining orders/victim impact statements
- Meet with victims and therapists
• Respond to health department if victim there
• Ensure victim rights/file notice with court
• Notify victim of court hearings
• Primary contact/liaison with prosecutors

There are also community based victim advocates, who work well with the District Attorney victim advocates. Community Victim Advocates have a less trusting relationship with police than do advocates from the DA Office.

There is no victim advocate privilege (for victim advocates who work for the District Attorney’s Office or for nonprofits).

Prosecutors in both counties find victim advocates invaluable – when asked, one prosecutor stated, “I can’t imagine doing my job without them.”

Yamhill County also learned that the county will receive the state’s first courthouse therapy dog in December 2013.

2. Victim Rights

Victim rights were made enforceable in Oregon in 2008, first by constitutional amendment, and then by statute. Once a victim Legal Counsel file a notice of appearance, the victim has standing in the case, at least for sentencing. A victim will seek enforcement of a right by appealing to the Oregon Supreme Court within 7 days of the matter being raised. Only one case has succeeded on the merits; the rest were dismissed on technicalities. Regarding bail hearings, the victim can ask to re-do, to set conditions that will provide protection.

JSC-SAS met with representatives from the state Attorney General’s Office, the Oregon Crime Victim Law Center (OCVLC), and the Oregon Coalition Against Domestic Violence and Sexual Violence (Coalition).

The Attorney General’s Office is working to improve sexual assault response, including improvement of non-profit response to sexual assault. The Office is focused on education, training, prevention, and legislation and advocacy efforts.

Victim rights include the right to consult with prosecutors and appear for hearings. These rights are being enforced at the trial court level. In fact, judges will enquire what the victim’s position is toward a case disposition. In addition, before sentencing the prosecutor will be required to tell the court whether the prosecutor’s office has contacted the victim regarding the sentencing hearing, whether the victim is aware of the right to be present, and whether the victim has waived the right. If this has not happened, the sentencing will be continued until another date.
3. Oregon Crime Victim Law Center (OCVLC)

The OCVLC is devoted to ensuring that crime victims are treated as integral parts of the criminal justice system. It provides no-cost direct legal representation and advocacy services provided to crime victims. It also conducts community outreach to the public about crime victims’ rights and provides training on such rights to advocates and organizations working with crime victims. The OCVLI is staffed by one attorney and one victim advocate, augmented by \textit{pro bono} attorneys from the community. The staff attorney handled about 80 cases last year, with \textit{pro bono} attorneys handling another 10 cases. Referrals come from nonprofit organizations, prosecutors, and the OCVLC website - almost 60% of the referrals were from prosecutors.

OCVLC only represents victims on criminal cases, on matters related to victim rights. It does not handle protective orders or other civil issues. It will refer victims to legal aid for these services (it works with an array of rape crisis centers and victim law centers). While the agency will represent victims of all crimes, a majority are victims of sexual assault and domestic violence.

- Victim rights made enforceable in Oregon in 2008 first by constitutional amendment, then by statute to make rights more accessible to victims. These rights include:
  - A remedy– gives victim standing
  - Method for appeal
  - Victim can ask for own remedy
    - File within 7 days
    - Supreme Court must respond within 7 days
    - Only one case has succeeded on the merits, the rest have been dismissed on technicalities
    - Release hearings (i.e. bail hearings) – Victim can ask to redo to set conditions which will protect the victim

A representation agreement is prepared in each case, defining the services and scope of representation that will be provided. It can be amended, or a new notice entered if additional services are necessary. A copy of a sample agreement is provided at Appendix L-2.

Much of OCVLI’s work involves protection of victim records – filing motions to quash discovery of those records. Victim attorneys are sought out frequently by victims of alcohol facilitated sexual assaults – many times these victims are college students. The Legal Counsel acts as the go between for the District Attorney’s Office and the victim. Other services commonly provided include:

- Representation for victims before Psychiatric Review Board
• Representation of victims at Parole hearings – can speak for victim
• Protection of victim records – file a lot of motions to quash motions/orders for victim medical and mental health records
• Represent victims to protect privacy regarding prior sexual history
• Represent victim interests when they differ from prosecutor interests

OCVLI attorneys do not handle protective orders or obtaining/contesting other civil issues. They refer victims to legal aid for these services, as they work with coalition of rape crisis centers/victim law centers.

The OCVLC staff attorney described her relationship with prosecutors as good. Most prosecutors don’t feel they have standing to protect a victim’s rights. There have been a few cases where the victim had different interests than the prosecutor. In those cases, the victim lawyer may have a more adversarial relationship on that particular case. There is generally a more adversarial relationship with defense counsel, mainly over the matter of records the victim does not feel the defense is entitled to. The OCVLC staff attorney interviewed has a prosecution background in another state.

The victim legal counsel interviewed indicated that there is not a requirement to be present every time a victim is interviewed. Rather, it depends on the client, and the scope of representation. They have found that it is possible to reach an agreement with the prosecutor that the victim be interviewed without legal counsel present, especially if the discussions do not relate to issues of representation.

OCVLC also provides victim advocate services, including a needs assessment, emotional and informational support, assistance applying for crime victim compensation, accompaniment to report a crime or to court, and referrals to other agencies. It is not unusual that two advocates will co-advocate on a case, but it is important to define their roles, so as not to confuse or overwhelm a victim. OCVLC or other non-profit advocates are typically more involved where there is no nothing going on with a case at the prosecution office, or there is no criminal case.

The OCVLC believes that victim advocates from nonprofits and victim advocates from the District Attorney’s Office should be trained together, to foster a collaborative relationship. Other issues to address when there are multiple advocacy services available include:

• Advocates should understand their role in the system. Training on clarity and coordination for all involved is important.
• Co-training helps advocates understand the boundaries of their roles.
• There should be a ‘point-advocate’ for the various stages or issues that arise in a case.
• Victim advocates who have confidentiality should get a release signed from victim so they can communicate with other advocates and SART members regarding victim needs and issues.

4. Oregon Coalition Against Domestic and Sexual Violence

The Oregon Coalition Against Domestic and Sexual Violence is a non-profit, feminist organization founded in 1978. The member programs that serve survivors of domestic and sexual violence in communities across the state comprise the core of the Coalition.

As an organization, the Coalition's efforts are directed toward providing technical assistance, training and public education to local crisis centers and communities; engaging in systems advocacy; and supporting multi-disciplinary efforts to develop effective agency protocols. These activities promote the awareness of sexual assault and domestic violence, enhance systemic responses to victims and their families, and support innovative approaches to ending domestic and sexual violence.

5. National Crime Victim Law Institute

JSC-SAS also met with the Executive Director of the National Crime Victim Law Institute, a national nonprofit legal education and advocacy organization. NCVLI focuses on technical assistance to and training for victim’s lawyers, prosecutors, and judges. It does very little direct representation of victims. NCVLI believes the model for a victim legal counsel program is a state Office of Victim Counsel, staffed with experienced attorneys who work with victim advocates.

Prosecutors in Multnomah County consider Portland to be ‘ground zero’ for the rise of victim Legal Counsel. Most are former prosecutors now in private practice. They report that criminal cases typically go smoothly and can be an asset to the prosecutor. They noted that the prosecution cannot be driven solely by the victim; there are societal considerations as well as fairness to the defendant.

Yamhill County prosecutors report a good relationship with victim Legal Counsel. They typically handle 412 motions (admissibility of victims’ past sexual behavior or predisposition), and can quash motions for victim medical records.

NCVLI provides technical assistance nationwide, and does very little direct representation. They provide technical assistance to and training to victim’s lawyers, prosecutors, and judges primarily. They also file amicus briefs on issues related to victim rights.
They provide education regarding victim rights, and have a website dedicated to providing updates on relevant case law involving victim rights and related issues. In 2004, more headnotes were created, and there are now about 70 new cases. NCVLI does a quarterly compilation that it sends out to its membership. Another good source of information on the subject of victim rights is a book written by Douglas E. Beloof, Paul G. Cassell, and Steven J. Twist, called ‘Victims in Criminal Procedure, 3d edition’.

They have had some success with getting sentences overturned – State v. Barnett and Kenna v. United States are two examples.

Funding: NCVLI has been predominantly funded by federal funding and competitive grants. In theory, funding should come from an appropriation grant.

The Office of Victim Counsel is a really good model of a victim legal counsel program. OVC’s model consists of lawyers with victim advocates working together. There has been a Law School component, but they’ve found that it doesn’t work especially well unless there are more experienced lawyers involved.

One example of NCVLI’s work is recently they have been working with Arizona on a case where the prosecutor negotiated a plea which eliminated the trafficking crime, which would have given the victim more restitution. The sentence was overturned because the victim didn’t get notified of the sentencing.

NCVLI attorneys also believe that the plea can be set aside in cases where the accused did not plead guilty to the original charge, and they argue that jeopardy did not attach where the victim’s rights were not complied with.

Victim’s rights – there are discrete moments of time where the victim has standing in the case.

Many prosecutors around the country still have concerns that having a victim legal counsel involved will interfere in the case and the prosecutor’s relationship with the victim. However, where a victim legal counsel does their job right, they will enhance the relationship. However, if a victim wants to “drop” the charges, the VLC will support the victim in that endeavor.

There is disagreement with what the courts find is “Brady” material, releasable to the defense, and NCVLI is enhancing victim rights in this area.

An NIJ study concluded that Victim Legal Counsel are only needed in certain moments, but NCVLI and others disagree with that. In some ways, VLC have found that by being on board, everyone complies more with victim rights.

Many jurisdictions now have co-located services. The philosophy behind the CAC/Victim Advocacy Centers is to provide a sense of safeness to victims, and to keep victims from
repeating their “story” over and over. They are good, but the defense counsel have a point when they observe that the parties can appear too close to feel independent. Each profession needs to maintain a structurally separate structure, even when working in the multidisciplinary setting.

Issue regarding whether victim legal counsel need to be present every time the victim is interviewed: It depends on the client, and what they need. In many cases, it is possible to reach an agreement with the prosecutor that if victim wants to/feels comfortable with talking to the prosecutor alone, that’s fine with the attorney.

Notification services – Issue regarding when VLC are notified of hearings, provided discovery, etc.

VLC will sometimes make the argument regarding whether 412 type evidence should be permitted at trial. The issue of whether they are better at it really depends on the agenda of the victim at trial.

There are not enough VLC in the civilian world, and only the “problem” cases get taken by VLC.

E. Public Defender

1. Organization

The JSC-SAS met with senior members of Metropolitan Public Defender Services, Inc., which is a private, nonprofit corporation originally established by the Multnomah County Bar Association for the purpose of providing effective assistance of counsel to indigent defendants in Multnomah County. Services are provided via a contract with Multnomah County (Metropolitan also has a contract with neighboring Washington County).

The agency has 63 attorneys and total staff of about 145. It is the largest public defender organization in Oregon. Each attorney will handle 120-150 major felonies per year, or about 250 ‘minor’ felonies, or about 350-400 misdemeanor cases. Of the 120-150 major felonies, about 20 will involve adult sexual assault, most of which are alcohol facilitated sex crimes.

Of the staff, there are 15 defense investigators, five in Washington County, and the rest in Multnomah County. They are paired with certain attorneys, and there will typically be 2-4 attorneys per investigator. There is no right for the defense to interview a victim. In Washington County, there have been instances where defense attorneys have been held in contempt for attempting to contact victims. Investigators can prepare “mitigation packages” similar to the work on death penalty cases, locate and interview witnesses, etc.

There is also one full-time, and one part-time, social worker. Their duties include tracking down outside resources available to defendants and working on policy issues. Forty percent of
the clients they see who are charged with misdemeanor crimes have some mental health issues or are mentally ill. This creates a need for services that are not always available.

2. Experience and Training

Hires typically have little prior experience. New attorneys will start by handling misdemeanor cases, and then felony drug or property crime cases for about a year. When assigned to the major crimes unit, new attorneys will typically ‘second-chair’ some major cases such as homicide. Attorneys are assigned to a case based on experience level. The office has a problem retaining experienced attorneys, because the salaries are less than equivalent prosecutors earn.

The Oregon Criminal Defense Lawyers Association provides CLE training for defense attorneys, which attorneys from the Metropolitan Public Defense Association attend. They also will attend a defense college in Macon, GA.

3. Victim Rights

The public defenders interviewed described victim rights laws in the 1980’s as thinly veiled ‘prosecutor’s wishes.’ Granting these rights tilted the process against defendants. As an example, in the past, domestic violence cases could be settled via ‘civil compromise,’ where the victim agreed to accept a certain settlement, in exchange for the charge(s) against the accused being dropped or reduced. Defense attorneys would be able to interview and get the best information from the victim. That changed, with prosecutors not wanting the victim to talk to the defense attorney. Consequently, ‘civil compromise’ is no longer permitted in DV cases. However, then society looked at and increased the rights of defendants, which created more balance.

The public defenders interviewed were generally positive about victims having resources and benefits available, and that victim attorneys are generally helpful in explaining the process to the victim, and for facilitating resources and benefits. However, the public defenders were not so sanguine about having victim Legal Counsel at the prosecutors table, and, more importantly believe it to be unfair in cases where there is a police or prosecution failure and the case is overturned, especially when the circumstance is a technical notice violation to the victim. They consider the setting aside of a plea as a due process violation and more problematic than setting aside a sentence. They summarized it by saying they were skeptical of enhancing enforcement mechanisms because, “the prosecutor screws up, and the defendant paid the price.”

Victim Legal Counsel can be a good safeguard when there is a request for medical or privacy records, the counsel stated, although they also indicated that it appears most of corporate America (e.g., Google) protects the victim by generally ignoring subpoenas.
The defense attorneys felt that the more experienced prosecutors were less likely to over-charge or over reach in cases. Where there are mandatory minimum sentences such as in Oregon on “Measure 11” cases, they see more consideration given to the charging decision based on the minimum sentence and other ancillary conditions (such as sex offender registration) that must be imposed.

They also noted that where victims know how much time a person can be sentenced to for a particular offense or crime; it can create a motive for fabrication (i.e. to “get rid” of an offender for a certain period of time).

4. General Comments

There are very few resources available to defendants. Regarding expert witnesses specifically, the Office of Public Defense Services (OPDS) (Note: OPDS is governed by the Office of Public Defense Services, an independent state agency) will write up a request for the expert, what he is needed for, and how much it will cost. Requests must be made early, or there is not enough time, as cases must be tried within 120 days (with a possible extension up to 150 days). However, requests are rarely turned down.

There is not enough discovery. Defense counsel doesn’t get to interview the victim before trial (applies to law enforcement in most cases as well). Motions are often held on the day of trial. This means the defense is going into trial ‘blind.’

F. Procedure

1. Handling Police Reports

In Multnomah County, when a police report comes in, the prosecutor can either ‘issue’ (charge), file a Request for Information (RFI), or ‘decline.’ Before filing a decline, the prosecutor should meet with the investigator and victim. Formal declinations are a public record. If a suspect is factually innocent, that should be stated in the memo. If something happened, but is not provable, prosecutors will use ‘unable to prove beyond a reasonable doubt.’ If a case is determined ‘unfounded’ by law enforcement or prosecutors, there are two categories: a false report or no basis for finding a crime occurred. The most common reason for not filing charges in sex offense is that it doesn’t meet the charging standard of a reasonable likelihood the case can be proven beyond a reasonable doubt at trial. If a person is factually innocent, prosecutors will write that in the decline, so that it is clear to future employers or others who might need to know, such as when police are accused of a crime.

In Multnomah County a prosecutor will do a full reassessment of the charge once the police report arrives. If the defendant is in custody, there is only a short time to file, so they will not usually do a victim interview prior to charging. There must be a Grand Jury hearing within 7
days, so the prosecutor will meet with the victim at that proceeding. When the defendant is not in custody, the prosecutor will generally interview the victim prior to charging.

As a matter of office policy and culture, prosecutors are conservative in what crimes are charged. The charging standard is what can be fairly proven beyond a reasonable doubt to a jury and is fair to the defendant.

In Yamhill County, if a prosecutor decides not to go forward with a case, a supervisor must approve the decision. The decision must be discussed with the victim and victim advocate. A decline memo is considered a public document, so it is written in a way that assumes release and does not harm the victim.

The public defenders believe that with a more experienced the prosecutor, it is less likely the case will be overcharged, or that there will be overreaching when charges are filed. Mandatory minimum sentences create more negotiations regarding the charges that will be filed, rather than the sentence that will be recommended to the court. When victims are aware that a defendant will be facing a certain sentence, it can create a motive for fabrication by the victim (i.e., the knowledge that the defendant could ‘go away’ for a certain period of time.)

2. **Plea Agreements**

In Yamhill County, before making a plea offer, the prosecutor will meet with the victim and discuss options and the victim’s wishes. If the crime is a ‘Measure 11’ serious offense, the District Attorney must sign off of the offer. Plea offers generally are determined based on the defendant’s criminal history, victim input, and the strength of the case. Sometimes an offer will be made contingent of the defendant having a psychosexual evaluation and following the conditions recommended in the report. The process in Multnomah County is similar.

Prosecutors need to keep in touch with victims and police the whole time a case is pending. Victim advocates are essential for this, and are extremely helpful in calling victims regarding court hearings, plea agreements, and collaborating with other outside agencies.

There are settlement conferences, where the judge will sit in and talk to the defense counsel and prosecutor. After hearing the parties’ positions, the judge will give his opinion. The victim is notified of the conference, but does not attend.

3. **Hearings**

In Yamhill County, judges have started to ask before hearings whether the victim has been notified, and what the position of the victim is, if it pertains to something involving victims’ rights.
G. Best Practices

1. Best practices for victim attorneys: The ideal victim’s attorney will have characteristics or professional background:
   
   o Prosecutorial background
   o Has worked with people from a variety of backgrounds and experiences
   o Someone who understands impact trauma-neurobiology (that victims might remember things differently when talking to a victim-attorney in a less stressful setting than with prosecutor)
   o Important that victims feel that they have a sense of control, and that they’re given choices (i.e. explain that there will be a certain consequence or result based on choices they make).

2. Conducting independent audits to assess the capabilities and practices of sexual assault investigations can lead to significant improvements overall.

3. Victim advocates who work in the prosecution office are invaluable for advising the victim of rights, explaining rights and the court system, keeping the victim informed of hearings and significant events, and being a liaison between the victim and prosecutor, and victim with outside agencies.
SEXUAL ASSAULT RESPONSE AND INVESTIGATION:
Portland efforts fall short of a victim-centered approach

A REPORT FROM THE CITY AUDITOR
June 2007

Office of the City Auditor
Portland, Oregon

Appendix L-1 - JSC-SAS Jurisdictional Documentation - Oregon
Full Audit found at
http://www.portlandonline.com/shared/cfm/image.cfm?id=158873
Representation Agreement re State v. XXXX, Lincoln County Circuit Court Case No.

Dear Ms. Client:

Scope of Agreement

This is our agreement regarding the scope of the Oregon Crime Victims Law Center’s (“OCVLC”’s) representation of you and your minor son’s interests in the above-entitled matter.

In this letter, “us” or “our” refers to an attorney employed by the OCVLC and/or one of our pro bono (volunteer) attorneys.

We will represent you and your son for the purpose of asserting you and your son’s right to refuse defense requests for information related to your son’s school and DHS records.

We are not engaged to prosecute or defend any civil claims that may be made by or against you concerning this defendant or any other person. (I am not suggesting that any such civil claims may exist, just that our representation is limited to the above-captioned case.) If any issues arise that would require for you to be represented by a civil attorney and you are not already represented by a civil attorney, the OCVLC can refer you to an appropriate attorney.

Other Terms of Agreement

Our representation of you in this matter will be pro bono (volunteer), meaning that you do not have to pay us anything.

As part of this representation agreement, you are required to sign a release which will allow us to use your and your son’s personal identifying information (i.e., your names) that was collected as part of the OCVLC’s intake process for the purpose of providing you and your son with legal representation.

As with any legal engagement, you are agreeing to cooperate and participate in the conduct of this representation and to truthfully and immediately notify us of anything that may occur that could affect our representation of you. You understand that we are relying on the information you give us.

You have the right to terminate our services at any time, and we have the right to withdraw from representing you at any time.
As part of this agreement you are authorizing the OCVLC to destroy this file 10 years after this case is closed by our office.

If the above properly and accurately sets forth our agreement, please sign the agreement and the release below. We will send you a copy for your records.

Please call if you have any questions or concerns about our representation of you; your rights as a crime victim or this case.

Thank you for allowing us this opportunity to represent you and your sister.

Sincerely,

Oregon Crime Victims Law Center

By: ______________________________
    Of Attorneys for OCVLC

I understand and agree to the terms of this agreement on behalf of myself.

________________________________________
    Date

I hereby allow the OCVLC to use my personal identifying information for the purpose of providing me with legal representation.

________________________________________
    Date
Foundational Rights

A crime victim has a right to justice, a right to a meaningful role in the criminal and juvenile justice systems, a right to due dignity and respect, and a right to fair and impartial treatment. A crime victim’s rights shall be protected at each stage of the criminal justice system.

Crime Victims Rights

- Foundational Rights
- Initial Notice of Rights
- Rights at Various Stages of the Criminal System
- Pre-Trial Rights
- Trial and Sentencing
- Post-Conviction Rights
- Civil Legal Rights for Victims of Crime

Initial Notice of Rights

A crime victim shall be given notice about victims’ rights in Oregon’s constitution as soon as practicable. If exercise of any of the rights depends upon a victim making a request, the notice shall include the time period in which a victim is required to make the request.

Rights at Various Stages of the Criminal System

The victim of a person crime who was at least 15 years old when the crime is committed, may select a personal representative to accompany the victim to phases of the investigation and prosecution of the crime except for grand jury proceedings and certain child abuse assessments.
A crime victim may be eligible for compensation for a crime. Furthermore, victims of sexual assault, suspected child sexual abuse or child physical abuse may have the costs of certain medical assessments paid by the Oregon Department of Justice.

A crime victim may have, upon request, a court order prohibiting distribution of evidence in a proceeding involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child, or invasion of person privacy.

A crime victim has, upon specific request, the right to be informed in advance of any critical stage of the proceedings held in open court when the defendant or alleged youth offender will be present. A crime victim has the right to be present at any such stage of the proceedings.

A crime victim may have a copy of a transcript, audiotape or videotape of any court proceeding in open court, if one is otherwise prepared.

A public body shall provide to the victim any of the following information of which it is the custodian and that is about the defendant, alleged youth offender, convicted criminal, or youth offender: (a) the conviction and sentence; (b) criminal history; (c) imprisonment; and (d) future release from physical custody.

A crime victim has the right to be reasonably protected from the criminal defendant, convicted criminal, the alleged youth offender, or youth offender throughout the criminal justice process or juvenile delinquency proceeding.

A crime victim has the right to have an address and phone number withheld from the defendant upon request unless good cause is otherwise shown. A victim of domestic violence, sexual assault or stalking may have a substitute address designated when disclosure of the address may threaten the safety of the victim or the victim’s child.

When a criminal act involves the transmission of body fluids, a crime victim may request HIV testing of the person charged or convicted of the offense, which, under certain circumstances, the court must order. If any such HIV test is positive, a victim shall be provided with counseling and referral for appropriate health care, testing and support services. The costs of this testing and counseling shall be paid through the crime victims’ compensation program.

Multnomah County District Attorney > Protecting Victims & Families > Victim Assistance Program > Crime Victims Rights > Pre-Trial Rights

Pre-Trial Rights

A crime victim has the right to be notified by the district attorney of the release hearing upon timely request. A crime victim has the right to appear personally at the release hearing and to reasonably express any views relevant to the issues before the magistrate.
A crime victim has the right to have decisions by the court regarding the pretrial release of a criminal defendant based, in part, on the principle of reasonable protection of the victim.

Any pretrial release order must prohibit any contact with the victim, unless specifically authorized by the court. If the defendant threatens or intimidates the victim, the district attorney shall notify the court and the defense attorney. If the defendant is not in custody and the court finds there is probable cause to believe the victim has been threatened or intimidated by the defendant, the court shall immediately issue an order to show cause why defendant’s release status should not be revoked.

If contacted by the defense, a victim must be clearly informed by the defendant’s attorney of the identity and capacity of the person contacting the victim, that the victim does not have to talk to the defendant’s attorney, or provide other discovery (except subpoenas and examinations allowed defense counsel) unless the victim wishes, and that the victim may have a district attorney present during any interview.

In any prosecution arising from an automobile collision in which the defendant is alleged to have been DUII, the prosecuting attorney shall make available to a victim, upon request, reports and information disclosed to the defendant.

If a DUII offense involves damage to property of a person other than the defendant, the victim of the property damage has a right to be present and to be heard at any hearing on a petition for a diversion agreement.

If a victim of a violent felony makes a timely request, the district attorney shall consult the victim regarding plea discussions before making a final plea agreement. If a victim asks to be consulted, the judge shall ask the district attorney if the victim agrees or disagrees with the plea discussions and agreement and the victim’s reasons for agreement or disagreement.

Multnomah County District Attorney > Protecting Victims & Families > Victim Assistance Program > Crime Victims Rights > Trial and Sentencing

**Trial and Sentencing**

When resetting any trial date or setting any court hearing requiring the presence of the victim, the court shall take the victim into consideration by asking the district attorney if the victim has been informed of the prospective date and if that date is convenient for the victim.

In a prosecution for rape, sodomy, unlawful sexual penetration, or sexual abuse, or in a prosecution for an attempt to commit one of these crimes, the following evidence is not admissible: Reputation or opinion evidence of the past sexual behavior of an alleged victim; or reputation or opinion evidence presented for the purpose of showing that the manner of dress of an alleged victim incited the crime or indicated consent. In a prosecution for these crimes or attempt to commit one of these crimes, evidence of a victim’s past sexual behavior other than reputation or opinion evidence is also inadmissible unless admitted in accordance with the Oregon Evidence Code and is evidence that relates to the motive or bias of the alleged victim, is
necessary to rebut or explain scientific, medical or testimonial evidence offered by the state, is necessary to establish the identity of the victim or is otherwise constitutionally required to be admitted.

At a victim’s request, there shall be no public access coverage of sex offense proceedings in court.

The preparer of a pre-sentence investigation report shall make a reasonable effort to contact the victim and obtain a statement describing the effect of the defendant’s offense on the victim. The preparer of the report shall include the statement of the victim in the pre-sentence report.

At the time of sentencing, the victim has the right to appear personally or by counsel, and has the right to reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim, and the need for restitution and compensatory fine.

Multnomah County District Attorney > Protecting Victims & Families > Victim Assistance Program > Crime Victims Rights > Post-Conviction Rights

Post-Conviction Rights

When a defendant is found guilty except for insanity, or is already under the jurisdiction of the Psychiatric Security Review Board, and a victim desires notification, the victim has the right to be notified by the PSRB and be given the right and opportunity to be heard when the board conducts a hearing.

If the board fails to make reasonable effort to notify the victim, or fails to give the victim the opportunity to be heard, the victim may request that the board reconsider its order. The board must grant the request, shall consider the victim’s statement, and may consider other information that was not available to the board at the hearing.

The right to reasonable, accurate and timely notice from the Attorney General when an appeal is taken in the criminal proceeding.

The right to reasonable, accurate and timely notice from the counsel for the state when a conviction in the criminal proceeding is the subject of a petition for post-conviction relief filed under ORS 138.510 to 138.680.

The right to attend any public hearing related to the criminal proceeding that is conducted by an appellate court.

The right to be reasonably protected from the offender, if the offender is present, at any related appellate or post-conviction relief proceeding.

Upon request, the victim has the right to have their schedule taken into account in scheduling the post-conviction proceedings.
Upon request, the victim has the right to inspect, in advance of the post-conviction proceedings, any public record on which the disposition of the petition will be based.

Upon request, the victim has the right to be heard, either orally or in writing, at the hearing.

Upon request, the victim has the right to consult with counsel for the state regarding the post-conviction proceeding, including, if applicable, notice of and the opportunity to consult regarding a settlement agreement.

Upon request, the victim has the right to be informed by counsel for the state of the manner in which the petition was disposed.

Any victim of a crime that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision; the victim may appear personally or through the next of kin or a representative selected by the victim. The victim has the following rights:

- The right to be reasonably protected from the offender during the proceeding; The right to attend the proceeding in person or, at the discretion of the victim and with advance notice to the board, to attend the proceeding by alternative means; the right to request the district attorney of the county in which the offender was convicted, in the discretion of the district attorney, to participate in the proceeding.
- The board must make a reasonable effort to notify the district attorney and the victim (if the victim requests) of any hearing conducted by the board by written notice (no later than 30 days before the hearing).
- The victim and the district attorney have the right to appear at any hearing conducted by the board, and may submit written and oral statements expressing views of the crime and the offender.
- The victim and the district attorney shall be given access to the information that the board will rely upon in the hearing, and shall be given adequate time to rebut the information. The victim and the district attorney may request the board obtain and consider additional records, evaluation or other documents.

These rules also apply to contested hearings conducted by the supervisory authority.

The state shall comply with federal crime victims’ rights in federal habeas corpus proceedings.

The State Police shall establish a toll-free telephone number to give victims of sex offenses updates on prison status, release information, parole status and any other information authorized for release about the person who committed the crime against the victim.

If a person is on post-prison supervision following conviction of a sex crime, the board or supervisory authority shall include a prohibition against any contact with the victim, directly or indirectly, unless approved by the victim, the person’s treatment provider and the board, supervisory authority or supervising officer.
If the Parole Board, the Department of Corrections or community corrections agency determines that a person under its supervision is a predatory sex offender, the agency supervising the person shall consider notifying any prior victim of the offender that the person is a predatory sex offender.

A victim has the right to receive prompt restitution from the convicted criminal who caused the victim’s loss or injury. When a person is convicted of a crime that resulted in pecuniary damages, the district attorney shall investigate and present to the court, prior to the time of sentencing, evidence of the nature and amount of such damages. If the court finds that a victim suffered pecuniary damages, the court shall: (a) Include in the judgment a requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim’s pecuniary damages; or (b) Include in the judgment a requirement that the defendant pay the victim restitution, and that the specific amount of restitution will be established by a supplemental judgment. In the supplemental judgment, the court shall establish a specific amount of restitution that equals the full amount of the victim’s pecuniary damages as determined by the court.

Whenever the court imposes a fine for the commission of a crime for which the person injured has a civil remedy, the court may order that the defendant pay any portion of the fine. This section shall be liberally construed in favor of victims. Compensatory fines may be awarded in addition to restitution.

When a youth offender has been found to be within the jurisdiction of the juvenile court for defacing property by creating graffiti, the court may order the youth offender to perform personal service consisting of removing graffiti or if the victim does not agree to the personal service, community service consisting of removing graffiti at some other location.

The court shall notify the parties to a juvenile court action and any other interested parties of a dispositional review hearing. The notice shall state the time and place of the hearing.

At the hearing at the half-sentence point of a person who was under 18 years old at the time of the commission of the offense for which the person was sentenced to a term of imprisonment of at least 24 months, the person must prove by clear and convincing evidence that if conditionally released, the person would not be a threat to the safety of the victim or the victim’s family.

When a prosecuting attorney is served with a copy of a motion to set aside a conviction, the prosecuting attorney shall provide a copy of the motion and notice of the hearing date to the victim by mailing a copy of them to the victim’s last-known address. The court shall allow the victim to make a statement at the hearing.

The State Board of Parole and Post-Prison Supervision must attempt to notify a victim, if the victim requests to be notified and furnishes the board a current address, at least 30 days before all hearings by sending written notice to the victim’s current address. Victims have the right to appear at any hearing or, in their discretion, to submit a written statement adequately and reasonably expressing any views concerning the crime and the person responsible. The victim shall be given access to the information that the board or division will rely upon and shall be
given adequate time to rebut the information. The victim may present information or evidence at
any hearing, subject to such reasonable rules as may be imposed by the offices conducting the
hearing.

A victim has the right, upon timely request, to be notified by the State Board of Parole and Post-
Prison Supervision of any hearing before the Board that may result in the revocation of the
parolee’s parole, or in a revocation sanction for a post-prison supervision violation; to appear
personally at the hearing; and, if present, to reasonably express any views relevant to the issues
before the Board. If a victim so requests, the Board or the Department of Corrections, as the case
may be, shall notify the victim of release of a convicted person from a Department of
Corrections institution on parole or post-prison supervision.

A victim has the right, upon timely request, to be notified by the district attorney of any hearing
before the court that may result in the revocation of the defendant’s probation; to appear
personally at the hearing; and if present, to reasonably express any views relevant to the issues
before the court.

Upon agreement of a youth offender, the youth offender’s parent or guardian and the victim of
the youth offender’s conduct, the court may order a youth offender to perform personal service
for the victim as a condition of probation. Personal service performed pursuant to the order shall
constitute full or partial satisfaction of any restitution ordered, as provided by agreement prior to
the making of the order.

An early disposition program for first-time offenders who have committed a nonperson offense
and for persons charged with probation violations must provide victim notification and
appearance.

**Civil Legal Rights for Victims of Crime**

Whenever any peace officer has reason to believe that a family or household member has been
abused, or that an elderly person or a person with disabilities has been abused, that officer shall
use all reasonable means to prevent further abuse, including advising each person of the
availability of a shelter or other services in the community and giving each person immediate
notice of the legal rights and remedies available.

A family abuse victim has the right to receive an instruction brochure, a petition, order and
related forms from the clerk of the circuit court explaining the rights set forth in Oregon Family
Abuse Prevention Act provisions. These rights include certain mandatory relief for up to one
year and allowing a petitioner to provide a mailing or contact address instead of a residential
address.

When any court enters a decree, order or modification of a decree or order under certain family
and assistance payment law, the court shall allow any party to the decree or order to include in
the decree or order a waiver of personal service in a subsequent contempt proceeding in order to
maintain the confidentiality of a residential address.
A victim of domestic violence, sexual assault or stalking may not be disqualified from receiving unemployment benefits if the individual has no reasonable available alternatives to leaving work to protect the individual or minor child from further domestic violence, sexual assault or stalking at a workplace or elsewhere.

A victim of domestic violence, sexual assault, or stalking, may terminate a rental agreement with a 14 day notice within 90 days of the crime, and has the right to have locks changed by the owner of rental property.

A victim of domestic violence may have a right, in some Oregon Housing Authorities, to a housing preference.

A person at risk for family, elder or disabled people abuse, has the right to go on a payment plan rather than have basic phone service disconnected for unpaid bills.

Any protection order issued by the court of one state or Indian tribe, after reasonable notice was given to the person against whom the order was made sufficient to protect due process rights, shall be accorded full faith and credit by the court of another state or tribe and enforced as if it were the order of the enforcing state or tribe.

The Department of Homeland Security may not release information about certain victims of domestic violence and their children without the victim’s consent.

Oregon residents who are victims of domestic violence or are at risk of becoming victims may be eligible for Temporary Assistance to Domestic Violence Survivors (TA/DV) emergency monetary grants through the Oregon Department of Human Services. Applicants must have children or be pregnant to qualify. Emergency monetary relief order under the Family Abuse Prevention Act does not affect eligibility for a TA/DVS grant.

Qualified victims of crime who are immigrants or certain family members of immigrants who are crime victims, may petition U.S. Citizenship and Immigration Services for: lawful permanent residency, readjustment of status, cancellation of a deportation order, a U visa, or a T visa.

The Department of Homeland Security may not make unfavorable immigration decisions based solely upon information provided by a spouse, parent, or other family member who resides in the same household as the immigrant, who is abusive toward the immigrant or the immigrant’s child.

Victims of crime who are immigrants may access emergency medical care and police assistance, may have the perpetrators of the crimes against them prosecuted, and may obtain community based services necessary to protect life and safety.
Appendix M - JSC-SAS Jurisdictional Summary – Philadelphia, Pennsylvania

Jurisdiction: Philadelphia, Pennsylvania

A. Introduction

With a population of about 1,547,000, Philadelphia is Pennsylvania’s largest city and the fifth-most populous city in the United States. Philadelphia has the second-largest student concentration on the East Coast, with over 120,000 college and university students enrolled within the city and nearly 300,000 in the metropolitan area.

B. Collaborative Organization

The Philadelphia Safety Collaborative Center (Collaborative) is a multidisciplinary center in which several agencies are co-located. The agencies include the Philadelphia Police Department’s Special Victims Unit, the Department of Human Services (DHS) Sexual Abuse Investigation Unit, the Philadelphia Children’s Alliance (a Child Advocacy Center (CAC)), the Philadelphia Sexual Assault Response Center (PSARC), and staff from the District Attorney’s office. The PSARC operates under the Drexel University School of Emergency Medicine. PSARC provides on-site medical services that assist in the collection of evidence for cases involving adult victims of sexual violence. SANE examinations are conducted on-site. PSARC is led by a retired senior supervisor from the Philadelphia Police Department’s Special Victim’s Unit.

The Collaborative is intended to streamline the investigative process for incidents of sexual abuse. The facility can accommodate a staff of approximately 120 full and part-time personnel. Interviewees noted that co-location of the agencies, especially the Philadelphia Children’s Alliance (PCA) and the PSARC encourages informal collaboration and information exchange, which has been extremely useful. It provides better accommodation for victims to receive multiple services under one “victim friendly” roof, and further encourages better utilization of services because of easy accessibility.

C. Law Enforcement

1. Organization

The Philadelphia Police Department has a Special Victims Unit (SVU) that investigates sex crimes committed against adults and children, and reports of physical abuse committed by caretakers against children under 18 years old. The SVU is made up of three sections:

- The Line Squad
- The Child Abuse Unit
- The Special Investigations Unit

The SVU has a staff of about 68, of whom 45 are investigators. There is an interview process to screen potential investigators. Investigators handle about 130 cases in the course of a
year. Supervisors receive initial reports before assigning to a detective. There are three supervisors for every seven to eight investigators. At any given time, an investigator will usually be handling about 80 cases. Investigators undergo a two-week orientation, following which they are rotated through the three SVU sections. The SVU has a Victim Assistance Officer who will make contact with every victim, and provide support and assistance, including providing information regarding the filing of a claim with the Pennsylvania Crime Victims Compensation Board. The Victim Assistance Officer coordinates support with other community victim advocacy services.

The Line Squad investigates adult and child sex crimes. The Special Investigations Unit provides back-up to all investigations. It also is charged with identifying and charting patterns, conducting extraditions, providing Internet expertise in pedophile investigations, and following up on cold cases.

2. Investigation

When a 911 call is made to report a sexual assault, a patrol officer will respond to the scene. The patrol officer will conduct an initial investigation and will then contact a detective in the SVU when the scene is contained. If the victim requires medical care, they will be taken to an Emergency Room (ER). A SANE examination can be conducted at the ER. If not, the officer will bring the victim to the Collaborative or another SARC. A detective from SVU will assume control of the investigation. The detective will conduct the victim interview. A suspect interview is not completed until the investigation ripens. Adult victim and suspect interviews are not videotaped.

Philadelphia is home to more than 80 colleges, universities, trade, and specialty schools. Those schools with Police or security units meet frequently with the SVU to discuss responses and techniques regarding incidents/cases. There are good relationships with school police departments. They will call SVU for all homicide and sex crime cases. SVU investigates these cases, not the school police department. Many school cases involve delayed reports – many over 72 hours from the incident.

The Police Department considers underreporting to be the biggest problem with respect to sex crime cases. It is estimated that only 40% of adult sex crime cases are reported.

A victim can choose to not proceed with the investigation. If a SANE examination is conducted, it will still be sent to a lab for analysis by the Department’s Forensic Science Division. Examination evidence will be held indefinitely in the event the victim changes their mind and decides to cooperate with the investigation/prosecution. In cases where the victim does not want to proceed, the police (or a victim advocate) will contact the victim to see if they have changed their mind. In cases involving a university victim, the victim will frequently contact the police to proceed with charges if the university does not hold an administrative hearing or the results of the administrative hearing are unsatisfactory.
In cases where an arrest is not made, the Assistant Chief of the Family Violence and Sexual Assault section in the District Attorney’s Office must conduct a review. If the DA agrees that that an arrest isn’t justified, a declination letter will be prepared, which is discoverable.

The detective(s) and investigative staff assigned to the case will continue to be involved after the case goes to the prosecutor. They will do follow-up work as requested by the prosecutor. Usually the detective will not sit in on subsequent victim interviews conducted by the prosecutor but that is not always the case.

Detectives usually will not sit at counsel’s table during trial, for the simple reason that the Police Department would have to pay him overtime. Other reasons given were that it would take time away from their cases, and in some cases a judge may not permit it to occur. However, it is viewed as a good idea, just not something that is typically done.

3. Training

Detectives receive a two week internal training upon assignment to the SVU, rotating through various areas of the unit. Detectives also attend formalized law enforcement training seminars, participate in cross-training with prosecutors or other groups such as Children’s Alliance, and receive on the job training from fellow detectives, supervisors, and others on the multi-disciplinary team.

4. Review/Audit

The Philadelphia Police Department’s SVU has modified the way it investigates, supervises and loses cases as a result of concerns raised by the Women’s Law Project (WLP) on behalf of advocacy groups and others in the late 1990’s. An extensive internal audit was conducted on the way sexual assault cases were investigated, classified and closed. Both police officials and advocacy group members who participated in the original audit report that the relationship was at first one of mistrust and suspicion, but as they worked together to improve processes and police investigation procedures, a relationship built on respect and trust has developed between the individuals and the agencies.

To ensure that investigative standards are maintained, an audit is conducted annually, where certain categories of cases are chosen for random sampling. As occurred during the original audit, members of the advocacy groups participating in the audit sign a confidentiality agreement and do not disclose information learned during the audits other than as agreed. Police, as well as the advocacy groups involved, related that this process has been effective in maintaining the quality of investigations and supervision of investigators in sexual assault cases.

Additional information regarding this process can be found at http://www.womenslawproject.org/resources/Policy_Brief_Improving_Police_Response_to_Sexual_Assault_Feb2013_FINAL.pdf. A copy is included in this Appendix.
D. Prosecutors

1. Organization

The organization of the Philadelphia District Attorney’s Office includes a Trial Division responsible for reviewing, preparing and prosecuting most crimes committed by adults. It includes a Family Violence and Sexual Assault section staffed with 18 prosecutors. Four of the prosecutors are new hires handling misdemeanor Domestic Violence cases and preliminary hearings. The remaining 14 prosecutors handle adult rape, child sex abuse, sex offender registration violations, felony Domestic Violence, and child physical abuse cases.

2. Experience, and Training

Most new attorneys are hired directly out of law school. For new hires, there is a two-week orientation. In addition, new prosecutors observe trials and hearings before handling cases. The office attempts to give prosecutors a broad array of training opportunities.

Prosecutors typically progress by spending 9-12 months handling misdemeanor cases, followed by a stint with the Juvenile Court unit, where they may handle sex cases but only for judge-alone trials. They will also handle preliminary hearings for sex cases.

Some prosecutors will start in B Court, which is a separate courtroom designed to be more child-friendly. Most cases are handled by the Juvenile Court unit, and it tries all types of felonies, including drugs, property crimes, and rape. These are cases where the defendant is a juvenile and are non-jury trials. The B Court also prosecutes adults who assault children. Prosecutors in B Court are evaluated for the Family Violence and Sexual Assault section based on interest and talent. Another important consideration for the Family Violence and Sexual Assault section is whether the prosecutor has the patience and ability to deal with victims and witnesses. Senior prosecutors interviewed stressed the value of having prosecutors handle victims and witnesses in a courteous way, including keeping them informed.

After B Court, a prosecutor will be assigned to a geographic zone, to try less serious felonies. After that, the prosecutor will be assigned to try more serious felony cases. At this point, a prosecutor may be selected for the Family Violence and Sexual Assault section. Typically, a prosecutor will try cases for 8-9 years before becoming a supervisor.

As prosecutors progress through the various units, they will typically receive some formalized training by the Pennsylvania Prosecutors Association that includes training on the criminal code, in addition to the mentoring and guidance received from supervisors and more experienced prosecutors. Prosecutors also have a wide array of in-house training within the unit, and the victim advocates will also provide training sessions for prosecutors.
Sex crimes cases are prosecuted vertically, with the same prosecutor on the case from arrest to sentencing. There is a 75% conviction rate for sex crimes.

The District Attorney’s Office has 2 full-time and 1 part-time investigators assigned to the SVU. They are police officers assigned to the District Attorney’s Office. Their duties include locating witnesses and accompanying prosecutors on field interviews. There is a cooperative working relationship between the Police Department, prosecutors and investigators from the District Attorney’s Office. Each prosecutor has an investigator assigned to him (but there are 8 prosecutors per investigator).

E. Victim Services

1. District Attorney’s Office

The Trial Division has a Victim/Witness Services unit. Victim/witness coordinators assist witnesses and victims throughout the criminal proceedings: notifying them of upcoming hearings, arranging transportation to court, providing support and guidance, and addressing issues of intimidation and harassment. The unit also assists crime victims with the Pennsylvania Crime Victims Compensation Board.

Advocates in the Victim/Witness Services unit typically hold a bachelor’s degree. There is an internal training process focusing on the criminal justice system. When a new prosecutor is assigned to the SVU, the unit will provide her an orientation focused on what the advocates do.

Prosecutors consider advocates to be very valuable to the process. Cases can take from 6 months to 1.5 years to resolve. Victim advocates are crucial to keeping the victim informed about every proceeding, and bridging the “information gap.” Prosecutors may have jury trials or be in court every week and may not contact a victim if there is no hearing or new information to relay to a victim of a case – it alleviates victim anxiety to receive a call from the victim advocate anyway, just to check in with the victim. The advocates are also available to return calls during the day when prosecutors are in court. Advocates, both those employed by or working with the prosecutor, are considered very knowledgeable about the criminal justice system and are able to explain it to victims. Having victim advocates involved early in the process often results in additional disclosure and greater victim cooperation.

The prosecutors contract with both Women Against Abuse (WAA) and Women Organized Against Rape (WOAR) to provide victim advocacy services at preliminary hearings. These groups also help with safety planning, provide a 24-hour hotline and counseling services to victims.

The Victim Advocate role is viewed as very important. They are able to convey the victim’s desires and expectations about the case to the prosecutor even when the victim isn’t present. The level of information and the ‘plain English’ explanations they provide back to the victim about
case progress and difficulties reduces misinformation and helps more victims stay with the process through trial.

2. **Community-Based Services**

   Women Organized Against Rape (WOAR) is a non-profit whose mission is to eliminate sexual violence through specialized treatment services, comprehensive prevention education programs, and advocacy for the rights of victims of sexual assault. WOAR provides free counseling for victims of sexual violence. The counselors have a Master’s degree in Counseling or Social Work.

   Court Advocates have a bachelor’s level degree. There are some positions that don’t require a degree for entry level advocates. This allows advocates to move up within the organization as their education and experience grows.

   Services include a 24-hour hotline, medical accompaniment, adult drop-in groups, counseling and support, accompaniment to court hearings, and support during the court process. They are not present during the police interview but will sit outside the interview room and be available if the victim needs an advocate. WOAR has a very good relationship with prosecutors in the SVU. They often provide training to prosecutors and police. In addition, the District Attorney’s Office contracts with WOAR, to provide victim advocate services at the preliminary hearing.

   WOAR victim advocates typically have a MA in Social Work.

   WOAR and other community based advocates generally are more focused on victim needs; advocates in Victim/Witness Services generally are more focused on assisting the victim through the process.

   Women Against Abuse is a non-profit organization primarily focused on providing services for victims of domestic violence. Services include emergency safe haven, transitional housing, legal services, behavioral healthcare, hotline counseling, community education, and advocacy. It is affiliated with the Women Against Abuse Legal Center, which provides attorney representation and court advocacy to victims seeking protection from abuse Orders and child custody matters.

   There is a victim-advocate privilege in Pennsylvania. This includes community-based advocates such as WOAR.

   Victim advocates and support personnel from the various agencies in the Philadelphia area work cooperatively and have a good understanding of each other’s role, processes and procedures. They are part of the multidisciplinary team process and many of them worked for at least one of the other organizations, often as an intern. Community advocates have a good relationship with the prosecutor’s office and prosecution based victim advocates. These groups
have found that it is helpful if the community advocates can ‘vouch’ for the prosecutor to the victim.

Both advocates and counselors who traditionally work with domestic violence victims and sexual assault victims work together, because there is a high percentage (70%) of domestic violence victims who were also sexually assaulted. Victim advocates who provide long term support help to facilitate disclosures of the more serious offenses, and help to maintain contact with victims throughout the pendency of the case and beyond.

F. Victim Legal Counsel

Philadelphia does not have a process for an adult victim to have a separate legal counsel participate in the criminal trial. Prosecutors indicate that although they do not ‘represent’ the victim, the victim is de facto their client. When asked, they did not believe Victim Legal Counsel was necessary or desirable in a criminal case. They have had little impact in this jurisdiction. One concern prosecutors voiced was having an attorney not familiar with the criminal justice system explaining a plea offer to the victim could cause more confusion.

Attorneys who represent child victims do have a role representing victims in the criminal case. Typically they are pro bono attorneys. Generally they work cooperatively with prosecutors from the District Attorney’s Office. In situations where they won’t let the prosecutor speak to the child without being present, they try to work out a compromise, such as having the victim lawyer leave the room during the rapport building phase. Attorneys in this situation might make argument regarding whether mental health records would need to be provided or released, with the concurrence of the judge or prosecutor. The prosecutor would still make argument regarding admissibility of the records in the case. The attorney would be a party but only where it involves the records. In some cases, the prosecutor will make a request for appointment of an attorney, such as in a case when a parent won’t allow contact with a child.

The other situation where a victim lawyer might be involved is as a “5th amendment” lawyer, where the victim is appointed counsel because of potential incriminating statements the victim may give because of collateral misconduct issues.

G. Criminal Procedure

1. Charging

The Police will make an initial decision regarding charges at the time of arrest, but a Prosecutor will review and make a final determination regarding charges. There is a lot of consultation between prosecutors and supervisors as to what the appropriate charges are.

Issues for consideration include:

1) Did a crime happen?
2) Did the person suspected do it?
  3) Is there a reasonable chance of proving it beyond a reasonable doubt?
  4) What is best for the victim?
  5) What is best for community?

Cases that are charged with these considerations have a 78% conviction rate.

There are two basic ways that cases get charged: The Police can submit an arrest warrant to the charging unit and a Prosecutor will review; or, the Police can submit the report to the Assistant Chief of the Domestic Violence and Sexual Assault section. These are generally the cases that are the closer call cases, on whether there’s enough evidence to charge. If the case is submitted to the charging unit, the case will either be charged, or a request for follow up will be submitted to the police, in an effort to make the case chargeable.

The District Attorney’s Office does not keep statistics on the number of cases charged. However, it does keep clearance rate statistics. Clearance rate represents the number of arrests plus declinations. There is a 64-66% clearance rate.

The investigators assigned to the District Attorney’s office are actually police detectives. They are employed by the Philadelphia Police Department but assigned to work at the District Attorney’s Office. They do very little investigation pre-arrest but can do some follow up investigation. They assist the prosecutors locating witnesses and accompany prosecutors to field interviews. There is a cooperative working relationship between the police and prosecutors, and this is one of the reasons why. Finding a balance between when there’s enough evidence to arrest and when more investigation should be first conducted is always an issue.

Regarding victim collateral misconduct, it is the policy of the District Attorney’s Office not to charge victims for low level drug use/possession or alcohol violations. The Office will sometimes grant immunity for other lesser offenses such as prostitution.

Prosecuting alcohol facilitated rapes is largely dependent on the wishes of the victim, along with the sufficiency of the evidence. Prosecutors and detectives look for corroborating evidence in order to take the burden off the victim if the case is charged and goes to trial. Forensic evidence (from both suspect and victim), cell phone/texting/photo records are all helpful, both from the suspect and victim cell phone. They also try to put the focus on the suspect – what the suspect looked like, how the suspect got home, what the suspect did after the incident, etc. If the decision is to decline prosecution, the prosecutor and victim advocate will carefully explain the decision to the victim. A declination is never final; it can be reviewed if new evidence comes to light or the victim changes her mind and wants to go forward.

A measure of success in investigating and charging cases is an increase in reports, since it gives an indication that victims have confidence in the system that their claims are being taken seriously. It’s important to have the resources, however, so the system doesn’t collapse on itself.
2. **Pleas**

All plea offers are made by calculating the defendant’s prior criminal history and the sentence guidelines. Plea offers must be approved by a supervisor, to ensure overall similarity. It can be made before arraignment. There is a protocol under development for pleas: the case will go to a ‘smart courtroom’ where the defendant can accept the plea. If the defendant does not accept the plea, the parties will proceed to a trial courtroom for trial.

As a general rule, the prosecutor will make better plea offers earlier; the closer to trial, the worse the offer. Many defendants are reluctant to make a decision until forced to, so some times pleas happen at the beginning of trial, but the agreement is usually less favorable for the defendant.

3. **Sentencing**

Sentences are imposed by a judge and based on criminal history and standard ranges.

If a defendant is found guilty they will be scheduled for a sentencing hearing. During this phase the victim or victim’s family will have the opportunity to address the Judge regarding the physical, emotional, and mental effects that the crime made in the victim’s everyday life. The statement(s) is/are taken into account by the Judge when determining the defendant’s sentence.

A victim/witness coordinator is able to assist with the preparation of a victim impact statement.

4. **Alternative Disposition Options**

There are some sex offender programs; if convicted of a crime, an offender may be given probation with a sex offender evaluation, treatment, polygraph exams, and conditions such as no possession of pornography, no contact with children, etc.

5. **Post-Sentencing**

The victim has the right to be notified when the offender is released from prison or scheduled for a parole hearing. In order to be notified of such events the victim must register with the appropriate program (Philadelphia Prison Notification Program, if the offender was sentenced to serve time in the Philadelphia County Prison system or the Office of the Victim Advocate if the offender was sentenced to serve time in a State Correctional Facility); once enrolled the victim will be notified of the offender’s release, parole hearings, escape, recapture, transfer, etc.

H. **Best Practices**

1. The Philadelphia Safety Collaborative Center (Collaborative) is a multidisciplinary center which is state of the art, and provides victims with one location in which most of the investigative functions can occur. It also provides supportive counseling and advocacy
services, along with the SANE examination in victim friendly/victim comfortable surroundings.

2. Victim Advocates from the District Attorney’s office and community organizations are well informed and integrated in the services they provide to victims. Much of the understanding and cooperation derives from multidisciplinary teamwork and training, in addition to the internships that advocates have completed in other agencies as part of their education requirements.

3. Victim advocacy groups have been instrumental in improving services to victim and trust between police, prosecutors and advocates. When an audit suggested that sexual assault cases were being closed improperly, advocacy group members conducted a thorough review of cases and worked with police and prosecutors to better improve the process.
ADVOCACY TO IMPROVE POLICE RESPONSE TO SEX CRIMES

INTRODUCTION
The Women's Law Project (WLP) is a leader in pursuing innovative strategies to improve police response to sex crimes on both a local and national level. WLP's advocacy on this issue started with its leadership in reforming police practice in Philadelphia in 1999, which included the unprecedented advocate review of sex crime files. The WLP initiated the call for the change in the Federal Bureau of Investigation's (FBI) antiquated definition of rape in its Uniform Crime Reporting (UCR) system and successfully requested hearings before the Senate Judiciary Committee's Sub-Committee on Crime & Drugs to address the national crisis that was revealed when media coverage demonstrated that the failures in Philadelphia existed in many cities. By invitation from The National Academies, the WLP has contributed its expertise on sex crime definitions to the examination of conceptual and methodological issues surrounding survey statistics on rape and sexual assault and the development of recommendations for best methods for obtaining accurate statistics in the future. WLP is currently participating as an advisor to the American Law Institute's project to modernize its model sex crime laws.

This policy brief provides the highlights of WLP's advocacy initiatives, including a detailed description of its unique Philadelphia Police Department (PPD)/advocate sex crime file review.

The goals of these advocacy initiatives are to achieve justice for the individual victims, prevent serial offenders from reperpetrating, increase public confidence in the criminal justice system, and improve societal understanding of the prevalence of serious sexual assault in society.
IT STARTED WITH THE CRISIS
In the fall of 1999, The Philadelphia Inquirer published a series of articles revealing that the PPD had downgraded thousands of rapes and other sex crimes to a non-criminal category for almost two decades. This downgrading eliminated a full and complete investigation of thousands of sexual assault cases. Almost one third of all sex crime reports were buried in the non-crime code "2701-Investigation of Person." The victims were never advised that their complaints had been shelved.

This disclosure came on the heels of the murder of Shannon Schieber by serial sexual predator Tony Graves. The police eventually linked the attack on Schieber to five other sexual assaults of women in the same Philadelphia neighborhood. Although four of these assaults occurred prior to the strangulation death of Schieber, they were put in the 2701 non-crime category, preventing police from connecting the perpetrator to the related assaults. After raping one more woman in Philadelphia in 1999, Graves went to Colorado, where he raped eight more women. Graves was ultimately convicted of all of the crimes, but the downgrading of crimes to non-crime categories unquestionably interfered with the earlier identification of a rapist and the prevention of a murder and many rapes.

The Inquirer's series hit the advocacy community like a bombshell, because advocates had believed that the PPD was appropriately handling sex crime investigations. Women Organized Against Rape (WOAR), Philadelphia's nonprofit rape crisis center, one of the first in the country, had aggressively advocated for reform in police and prosecutorial practice in the late 70s and early 80s. In response to this advocacy, in 1981 the PPD established a special rape squad so that investigations of rape and other sex crimes would be tailored to the unique and sensitive nature of the crimes. Child abuse was later added to the unit, which is now called the Special Victims' Unit (SVU). At the same time, a special prosecution unit for sexual assault was established in the Philadelphia D.A.'s office.

Looking back, it is clear that the police response to sex crimes was not as it should have been. In its first years, the SVU reported high numbers of unfounded complaints. According to the FBI, which monitors crime statistics through its UCR system, a complaint is to be unfounded only after it is determined through investigation that the complaint is false or baseless, meaning the evidence demonstrates that no conduct that meets the legal definition of a crime occurred or was attempted. Despite strict guidelines for classifying a complaint as unfounded, law enforcement frequently classify cases as unfounded that do not meet these requirements. This misclassification results in inordinately high unfounding rates. In 1983, the PPD SVU's unfounded rape rate was 43%, when the national average was 10%. By increasing the unfounded rate, a police department keeps the crime rate down, a result that police seek to achieve for public relations purposes.

In 1984, the FBI noticed an increase in Philadelphia's unfounded rate for rape to 52%
for the first half of 1983 and sent a letter to the PPD asking for an explanation. After the FBI told Philadelphia to reduce the unfounded rape rate, Philadelphia reduced it to 16% in 1984.

The FBI examined and addressed only the PPD’s unfounded rate at that time. However, the PPD was apparently placing significant numbers of complaints in non-crime codes as well. Research conducted following the Inquirer’s 1999 disclosures revealed studies had uncovered these PPD practices years before. A 1978 academic study analyzed the interaction of the Philadelphia criminal justice system with sexual assault victims and identified the use of non-crimes codes by the PPD in the early 1970s. According to that study, the PPD placed almost 11% of the 1141 cases studied into non-crime codes, including code 2701—Investigation of Person. A University of Pennsylvania law review published in 1968 also revealed that the PPD used the non-crime code 2701 in the 1960’s, at which time it also engaged in other practices that essentially unfounded crimes, including turning away complainants without preparing and filing incident reports and unfounding incidents without any follow-up investigation at all.

In the 1980’s, in response to the FBI’s directive to reduce its unfounded rape rate, the PPD increased the number of cases it placed in non-crime codes. According to the Inquirer, the PPD placed approximately 30% of its complaints in code 2701 over two decades. This manipulation of case classification gave the PPD an artificially high rate of clearing—or solving—rape cases. The PPD’s rape clearance rate for 1993 was 74 percent, compared to the national average of 53 percent.

In 1997, the FBI and PPD auditors questioned PPD’s use of the 2701 code and the PPD discontinued its use for sex crimes.

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![Coding of Reported Crimes 1995-2000](image)

*“Other sex crimes” include sexual penetration of orifices other than the vagina, vaginal penetration without force and without consent, sexual penetration of men, statutory sexual assault, incest, indecent exposure and attempts to commit any of these acts.*

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2 Id. at 99, 110.
The elimination of the 2701 code caused an increase in the unfounded rate – which doubled to 18% in 1998.

At same time, the SVU started placing complaints in another non-crime code: “2625—Investigation, Protection and Medical Examination.” In 1998 and 1999, the SVU placed about 5% of its caseload in this code.

![Use of Non-Crime Code 2625](image)

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<th>Year</th>
<th>Rape</th>
<th>Other Sex Crimes*</th>
<th>Code 2625</th>
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</table>

* "Other sex crimes" include sexual penetration of orifices other than the vagina, vaginal penetration without force and without consent, sexual penetration of men, statutory sexual assault, incest, indecent exposure and attempts to commit any of these acts.

Source: Philadelphia Police Department

THE ADVOCATE RESPONSE

The WLP led the advocacy by the women’s and children’s organizations that work on sexual assault to address this scandal. Although WOAR had been meeting with the police for years, they were unaware of the PPD practice of decriminalizing rape complaints and saw it as a betrayal of the good faith in which they had interacted with the police. Recognizing the need for public oversight, the WLP requested that the Public Safety Committee of City Council hold hearings to investigate the Inquirer’s allegations. In addition, WLP organized meetings with then-Police Commissioner Timoney and his senior staff to discuss the need for Departmental reform.

The Commissioner agreed to conduct an internal audit to evaluate the coding of sex crime complaints placed in non-crime codes for the previous five years—which was at that time the statute of limitations or time period following the assault during which charges could still be filed against an assailant. He assigned his Quality Assurance Bureau as well as 45 newly-graduated detectives to conduct this reinvestigation and recoding of approximately 3,700 complaints handled from 1995 through 1999 and agreed that the Department would recode and pursue any cases that had incorrectly been placed in a non-crime code.

The outcome of the reinvestigation was alarmingly revealing. It found that 681 cases that had been coded 2701 should have been classified and investigated as rape—a first degree felony. In total, 58% of the 3,119 cases originally coded 2701 were recoded as crimes and founded. In addition to the 681 recoded as founded rape crimes, 1,141 were recoded as crimes other than rape, including other sex crimes.
REASONS FOR POLICE MISHANDLING OF SEX CRIMES

There are multiple reasons for the PPD's mishandling of sex crimes. The two primary reasons revealed from the interviews reported in the press as well as in the academic literature are: (1) the influence of societal bias against sex crime victims and myths about sexual assault and (2) pressure to improve crime statistics.

Societal myths influence police response to sex crimes. Rape myths are "attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women." These myths include:

- Most rape claims are false, and women cry rape out of guilt or vengeance.
- Most rapes are committed by strangers.
- Real rape victims fight back and are seriously injured.
- Rape happens only to women who are considered "bad" by society, including those considered to be "promiscuous" or to dress provocatively and those who drink alcohol or engage in other activities that render them deserving of rape or blame.
- When a woman says "no" she means "yes."
- Women secretly want to be raped.

These myths wrongly blame the victim, assume the victim's untruthfulness, trivialize the seriousness of sexual assault, and excuse the assailant's behavior.

*"Other sex crimes" include sexual penetration of children other than the vagina, vaginal penetration without force and without consent, sexual penetration of men, statutory sexual assault, incest, indecent exposure and attempts to commit any of these acts.

Source: Philadelphia Police Department
In fact, most rape allegations are not false, rape does not discriminate among classes of women, and most rapes are committed by someone the victim knows. In contrast to the mistaken belief that women make false allegations, most women do not even report their victimizations to law enforcement. In reality, only 5% to 20% of victims report to police. In addition, intoxicated victims are incapable of consenting to sex and rape often results in few, if any, physical injuries apart from the rape itself. Many victims do not physically resist their attackers for a variety of reasons. They fear serious injury or death and are immobilized by trauma. Furthermore, research shows that there is a wide range of reactions and behaviors that victims exhibit during and in the aftermath of sexual assault, and it is erroneous to assume that a victim should behave in any particular way.

The factors associated with the unfounding and decriminalizing of rape in Philadelphia echo these myths and biases. The study of the PPD’s response to sex crimes in the 1970s found the following variables associated with the PPD’s unfounding of sexual assault at that time:

- The victims were poor, minorities, prostitutes, and alcohol and drug abusers.
- The police believed the woman asked for it.
- The police believed the case would not succeed in court.
- The following variables were identified as associated with coding a sexual assault as a non-crime:
  - The assault took place in the victim’s home.
  - The victim was a heavy drinker.
  - There was more than one offender.
  - The victim had a history of truancy.
  - Coercion was lacking.
  - No sex act was completed.
  - The victim was poor.
  - The victim had prior trouble with the police.

The comments to Inquirer reporters in 1999 by then-current and former police as well as victims reflect the same biases. Police reported:

- Using non-crime codes to sideline victims who did not “fit a certain profile” or were not “people of substance,” had a history of drug and alcohol abuse, spent time in prison or had criminal records, were strippers, prostitutes, or had been offered (but not accepted) money for sex, lived in dangerous parts of the city, had mental problems; or were low income;

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4Kimberly A. Lonsway & Louise F. Fitzgerald, Rape Myths in Review, 18 Psych. of Women Quarterly 133, 133-34 (1994).
• Questioning whether someone was really raped based on her "odd" behavior, such as writing notes while waiting to be interviewed and delaying reporting the crime.

• Asserting that non-crime codes were not for "real rapes" but for false complaints.

The police also identified a culture obsessed with statistics and downgrading crime to make the city look good.

Victims reported police treating them as liars:

• Police asked one woman whether she was hallucinating.

• Investigators showed little interest in their case, seemed skeptical, and did not contact them.

• Police told one victim it would be hard to prove rape because she let the perpetrator into her house.

Following the Inquirer's revelations and WLP's public comment in the newspapers, victims whose cases had not been investigated contacted WLP lawyers. They told us more about how officer bias affected the handling of their complaints. Victims reported that they were interrogated rather than interviewed, disbelieved, and threatened with false complaint charges or required to undergo polygraphs. They described officers showing more concern for the alleged perpetrator's reputation than the victim's safety.

In addition to bias and motivation to improve statistics, the difficulty of the work may have adversely affected police behavior. The rape unit had traditionally been overburdened and understaffed; training, guidance and supervision were inadequate. Burnout, or what has become known as secondary trauma, affecting persons who routinely work with traumatized clients, appears to have been a factor. This is consistent with research showing that police suffer more work-related trauma than combat veterans.

INNOVATIVE STRATEGIES
Leadership and Partnership

PPD Commissioner Timoney, who had been appointed only a year or so prior to the scandal, responded by not only reinforcing the correct coding of crimes regardless of impact on statistics, but also reorganizing and renaming the rape squad as the Special Victims Unit (SVU). Timoney appointed a new captain of the SVU, improved training, and assigned detectives to the unit for the first time. New policies were put in place, requiring captain review of all unfounded files and supervisory review of all files before they are closed.

Revision of Coding Manual

At the invitation of the PPD, the WLP also reviewed and provided extensive written and in-person comment on drafts of a new coding manual prepared by the Department. The coding manual now accurately and specifically describes the nature of the crimes under each code.
The Case File Review

Understanding the crisis in public confidence caused by this scandal, Commissioner Timoney, in an unprecedented move, asked the WLP to convene relevant advocacy groups to review adult and child sexual assault cases. This invitation to allow a citizen’s group to review police files is, WLP believes, the first voluntary collaboration of its kind in the country, and as such, has received considerable attention. Thus, in 2000, we commenced what would become an annual review of sex crimes files with our colleagues from the Support Center for Child Advocates, which provides representation to child victims of abuse, Philadelphia Children’s Alliance, Philadelphia’s primary intervention organization for child sexual abuse victims which coordinates multi-agency forensic interviews, and Women Organized Against Rape, Philadelphia’s rape crisis agency. Each organization participating in the review entered into a confidentiality agreement with the PPD, agreeing not to reveal any information learned from the file review.

In the first year of the case review, advocates reviewed all of the cases unfounded by the SVU for the years 1999 and 2000 as well as 100 randomly selected cases from the year 2000.

After the first year, we returned annually through the administration of Commissioner Timoney. When new Commissioners came on board, we met with each new Commissioner to explain the review process and why it was important, and each Commissioner has supported our file review and agreed to its continuation. The review has been going on now for 12 years. It has resulted in significant improvement in the thoroughness and documentation of investigations and coding of crimes. The review has led to the reopening of some cases that had been unfounded.

During the review, which takes place over several days, advocates read hundreds of files. If needed to identify files for discussion with staff, reviewers write their question and concerns on sticky notes and place them on the files. The captain and lieutenants periodically meet with the advocates to discuss these issues identified. Following discussion and resolution of advocate concerns, the sticky notes are disposed of.

We examine the thoroughness of particular elements of the investigation:

- Were all witnesses interviewed that had been identified?
- Were the interviews conducted in a proper manner, i.e., not calling the victim a liar and not interrogating, blaming or threatening the victim?
- If there was a recantation, was it coerced? Were there circumstances that suggested the recantation resulted from fear of reprisal from the perpetrator and not because the assault did not occur?
- Were photos taken and the scene processed?
- Was evidence collection thorough?
- Was physical evidence timely tested and results returned to the investigator?

In addition, we examine the outcome of the investigation:

- Was the case properly coded as a crime and as the correct crime?
- If the investigation supported an arrest, was it made?
- If a case was unfounded, was it proper to do so? Did the investigation demonstrate that no crime had occurred?
- Did a supervisor review and approve each decision to unfound a case?
- If a case was exceptionally cleared was the exceptional clearance proper? In other words, was an arrest warranted by the evidence and the perpetrator identified and at a known location but some reason outside of law enforcement prevented the arrest from being made?

It is important to understand that this review has been conducted in a collegial non-adversarial manner. It took some time for the advocates and police to become comfortable with each other. The SVU staff was not used to having outsiders review their files and were cautious in their interactions with the advocates. New to the process, the advocates were equally guarded. However, everyone at the table has been respectful to one another. Although the Commissioners have invited us to come to them if there were problems, none have arisen. Ultimately, advocates and police staff developed a good rapport that fosters a positive exchange and receptivity to comments and concerns.

Data Review

We regularly obtain data from the Department to monitor ongoing coding and resolution of complaints.

Improved 911 Response

At the request of the Department, we have provided input into the Department’s upgrading of its 911 system to better respond to sexual assault calls by assigning the correct priority of response and obtaining from and communicating to the victim essential information.

New Location

When this work began, the SVU was located in an industrial park that was formerly an arsenal. Surrounded by barbed wire, the SVU building was small and overcrowded, with victims and perpetrators passing each other in the halls. This facility was inappropriate for working with victims of sex crimes and child abuse, which requires a high degree of sensitivity.

Our advocacy led to the relocation of the SVU in September 2003 to a more appropriate facility located on the Episcopal Hospital campus, which doubled its previous space. Most importantly, victims and perpetrators are separated, there are comfort-
able waiting rooms for adults and child victims, and private interview space is available. Appropriate work stations and interrogation rooms as well as phone lines and internet access permit officers to conduct adequate investigations. A library and training room were also added to the facility.

In the Spring of 2013, the SVU will move again, this time to a new location where it will be co-located with the sexual assault unit of Philadelphia’s child welfare agency, the Department of Human Services (DHS), and the Philadelphia Children’s Alliance. Appropriate forensic interviews will take place. Medical examination facilities for children and adults will also be located at this site. This new state-of-the-art facility will accommodate victim needs and provide more efficient investigations of child sexual and physical abuse cases.

CHANGING THE FBI DEFINITION OF RAPE

The WLP led the national effort to change the definition of rape used by the FBI in its UCR system to reflect more accurately societal and legal definitions of serious sexual assault. The WLP recognized the need to change the UCR definition of rape after learning about the impact of the UCR on the PPD’s handling and reporting of sex crimes. The UCR was developed in 1929 as a framework for gathering and publishing crime data from local police departments. Unchanged until 2012, the UCR defined rape as “the carnal knowledge of a female, forcibly and against her will.” This definition included only forcible male penile penetration of a female. Omitted from this UCR definition of rape were oral and anal intercourse, penetration of the vagina and anus with an object or body part other than the penis, rape of males, rape of females by males, incest, statutory rape, and nonforcible rape.

As we worked with the PPD, it became apparent that it was the UCR definition of rape and not Pennsylvania’s criminal sexual assault statutes that drove police perception and response to sex crimes. As a consequence, police did not perceive sex crime complaints that did not meet the UCR definition of rape as serious or credible crimes and did not code them as crimes and/or investigate them appropriately.

Moreover, as we studied the UCR, we learned that the FBI only issued public announcements relating to the number of complaints that fit within the narrow subset of sex crimes included in the FBI’s forcible rape definition. As a consequence, the FBI was leaving the public in the dark about the true incidence of equally serious sex crimes.

In addition, data is instrumental in driving policy responses to societal problems. Sex crime data influences the scope of resources afforded victims. The diminution of sex crime statistics has therefore also hampered government response and victim assistance efforts.

In the years since the UCR created its definition of rape, America significantly expanded its understanding of rape, and states have revised their laws accordingly.
Many state criminal laws now recognize that all forms of non-consensual sexual penetration regardless of gender, relationship, or mode of penetration are as serious as the criminal conduct included in the original UCR definition of rape, but which, until now, remained excluded.

In a letter sent to then-FBI Director Robert Mueller, III in September 2001, the WLP outlined the deleterious impact of the UCR’s definition of rape on public knowledge about serious sex crimes and on the reporting and handling of sexual assault complaints. Over 80 organizations throughout the nation involved in advocacy on behalf of victims of sexual assault signed on to this letter in support of its persuasive argument that the UCR’s definition of rape should be updated immediately. The letter received no response.

The drive to change the UCR definition of rape gained momentum in 2010, after hearings before the U.S. Senate Judiciary Subcommittee on Crime and Drugs on the mishandling of rape cases by police departments. Carol Tracy, WLP’s Executive Director, testified that sexual stereotypes are a root cause of police mishandling of sex crimes and made clear that the manner in which the FBI’s UCR system defines, analyzes and publicizes the incidence sex crimes is also a major factor. Further advocacy led to the creation of a new definition.

The new definition, which goes into effect in 2013, defines rape as “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” This effort was supported by the U.S. Department of Justice Office of Violence Against Women.
Victims Rights Office of Victims Advocacy 502.696.5312 800.372.2551 ag.ky.gov/victims

Criminal Justice Steps

Crime Victim Compensation
An application for crime victim compensation is available from the Kentucky Crime Victims Compensation Board. To obtain a form or for additional information the Board may be contacted at 502.573.7986 or 800.469.2120. Applications and answers to frequently asked questions can also be found at http://cvcb.ky.gov/

Victim Information and Notification Everyday (VINE)
For information and notifications regarding currently incarcerated offenders you may register by calling 800.511.1670 or on the web at http://tinyurl.com/6ccyrm

VINE Court Service
For information or notifications regarding upcoming court events you may register by calling 800.511.1670 or on the web at http://tinyurl.com/3l7a7h
If you need additional assistance in registering for either VINE or VINE Court Service contact the Office of Victims Services at 877.687.6818.

Sex Offender Registry
http://tinyurl.com/cffurn

Sex Offender Alert Line
Up-to-date information regarding the release of registered sex offenders into local communities is available by calling 866.564.5652.

NOTE:
Plea bargains may occur at any time during the process, depending on the policies of the local prosecutor or court.

Additional Resources

Kentucky Association of Sexual Assault Programs
502.226.2704

Kentucky Domestic Violence Association
502.209.5382

Kentucky Association of Children’s Advocacy Centers
502.223.5117

Kentucky MADD
502.223.4930

Appendix M-2 - JSC-SAS Jurisdictional Documentation - Pennsylvania

Office of Victims Advocacy
502.696.5312
800.372.2551
ag.ky.gov/victims
Prosecutors’ Role

The Commonwealth’s attorney prosecutes all felony crimes (those offenses carrying a penalty of one year or more) committed by persons eighteen years of age or older, which occur in the judicial circuit of that prosecutor. In some specific instances, the Commonwealth’s attorney may also prosecute juveniles charged with felony offenses. The Commonwealth’s attorney is also responsible for presenting evidence of such crimes to the grand jury (KRS 15.725). The Commonwealth’s Attorney represents the Commonwealth, not the crime victim.

The County attorney prosecutes all violations of criminal laws, except KRS Chapter 131, within the jurisdiction of the district court and all proceedings held pursuant to petitions filed under KRS Chapter 610 (the Unified Juvenile Code), which occur in the county of that prosecutor. These cases include felony crimes through preliminary hearing, misdemeanor crimes, crimes committed by juveniles, and dependency, neglect and abuse cases (KRS 15.725; KRS 610). The County Attorney represents the Commonwealth, not the crime victim.

Defense Attorneys’ Role

The constitutions of the United States and Kentucky require that all persons accused of a crime have a fair trial. The role of the defense attorney is to provide representation for an accused person and protect his or her right to a fair trial. The defendant, or his attorney, has the right to question all witnesses at trial or in other court proceedings (except grand jury). A victim or witness is not required to discuss the crime outside of court unless served with a court order.

Attorney General’s Role

To provide, where possible, notification to the victim of the defendant’s initial appeal, status of the case and the decision of the appellate court, if a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General.

Kentucky Crime Victims Bill of Rights

Prosecutors’ Role

Information — Attorneys for the Commonwealth shall insure that victims receive available information on

- protective, emergency, social and medical services;
- obtaining assistance from a victim advocate;
- community-based treatment programs; and
- where applicable, restitution and crime victim compensation.

They shall also provide information to victims and witnesses on

- how to register to be notified when a person has been released from a prison, jail, juvenile detention facility, psychiatric facility or under limited circumstances, a forensic psychiatric facility;
- how to be protected from intimidation, harassment, or retaliation; and
- the Victim, Witness and Family Protection Program.

Notification — If victims so desire and if they provide the prosecutor with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including but not limited to the following:

- Defendant’s release on bond and any special conditions of release,
- charges filed against the defendant,
- the defendant’s pleading to the charges,
- trial date,
- a scheduled hearing for shock probation or bail pending appeal and any resulting orders,
- changes in custody of the defendant,
- changes in the trial date,
- trial verdict,
- sentencing date, and
- any parole board hearings held for the defendant.

Prosecutors shall also

- make reasonable efforts to insure that victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduled changes that affect their appearances,
- notify the victim that upon conviction of the defendant that he or she has the right to submit a written victim impact statement, and
- make a reasonable effort to insure that victims receive prompt notification that the Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant.

Consultation — Attorneys for the Commonwealth shall consult victims on case disposition including the following:

- case dismissal,
- release of defendant pending judicial proceedings,
- any conditions of release,
- a negotiated plea, or
- defendant’s entry into a pre-trial diversion program.

Other provisions — Attorneys for the Commonwealth shall:

- promptly return a victim’s property held for evidentiary purposes unless there is a compelling reason for retaining it,
- provide information on obtaining protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and
- upon request by a victim or witness, assist in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absences from work.

Appendix M-2 - JSC-SAS Jurisdictional Documentation - Pennsylvania Page 2
Jurisdiction: Travis County, Austin, Texas

A. Introduction

Austin, the capital of Texas, encompasses about 272 square miles and has a population of about 850,000, making it the 11th largest city in the United States. The University of Texas at Austin has over 50,000 students enrolled in undergraduate and graduate programs. The only military installation in Austin is Camp Mabry, which houses National Guard and National Air Guard units. Austin is also within an hour and a half drive from several military installations that comprise Joint Base San Antonio. The total population of Travis County is approximately 1,024,000. According to FBI crime statistics, the rate of forcible rapes per 100,000 inhabitants in Travis County is 22.8.

B. Law Enforcement

Travis County has several law enforcement agencies that investigate crime reports prosecuted by the Travis County District Attorney. The largest of these agencies is the Austin Police Department and the Travis County Sheriff’s Department. Only the Austin Police Department was studied by JSC-SAS.

1. Organization

The Austin Police Department has a Sex Crimes Unit for the investigation of sexual crimes committed against victims 17 years of age or older. All reported offenses that require investigation will be assigned to a detective in the unit. Outside normal weekday business hours, one detective is assigned to night and weekend shifts. A unit supervisor is available on a call-back basis 24-hours a day, 7 days a week. If there is a request for after-hours assistance from a patrol officer, the detective is available to provide advice, assist in the investigation, and/or respond to the scene or other location when necessary to conduct a proper and thorough investigation.

2. Investigation

Typically a patrol officer will be the first to report to the scene after a sex crime is reported. If the response scene is not a medical facility, the patrol officer will make a determination whether the victim needs emergency medical care. Contact is then made with a detective from the Sex Crimes Unit. If a report is made within 120 hours, a Sexual Assault Nurse Examiner (SANE) exam will be conducted. If the victim consents, the crisis team, including victim service advocates, will also be notified and respond to the victim’s location.

All interviews of the victim are videotaped. It is standard practice to interview the victim before the suspect, to ensure a better interview of the suspect. Because of training provided on victim trauma, victims are generally not interviewed until they have had the opportunity for two “sleep cycles.” Texas law requires the videotaping of suspects.
C. Prosecution

1. Organization and Experience

The Austin District Attorney’s Office has no separate unit or division that prosecutes sex offenses. Prosecutors in the Trial Division are assigned by trial court and will be supervised by a trial court chief. The Trial Court Chief supervises, mentors and trains the prosecutors working in the division. Prosecutors assigned to sex offense cases must at least have experience prosecuting misdemeanor cases. Sexual assault cases and homicide cases are charged vertically, meaning that the same prosecutor will handle the case from receipt of the case through trial.

The office has its own investigators. An experienced sexual assault prosecutor is assigned to liaison with the Austin Police Department and works out of the police department several days per week in order to be available for consultation and advice.

2. Investigations

One prosecutor spends several days per week working in the law enforcement Sex Crimes Unit offices. This enables them to review cases and discuss issues related to investigations as they occur. Police investigators will also consult with a prosecutor before making an arrest. Prosecutors and the police department believe this coordination has improved their relationship as well as the reports the police generate.

Prosecutors typically are not present and do not participate in victim interviews. However, a prosecutor will normally conduct another interview of the victim regarding the facts of the incident, as part of trial preparation.

There is a SART team involved in the investigation of sexual assault cases.

D. Victim Services

1. Austin Police Department

The Austin Police Department has a victim services unit that provides both full time and volunteer counselors who are available 24 hours per day, seven days per week. Counselors provide crisis stabilization services to adult victims, family members, and witnesses. Crisis stabilization services include crisis counseling, advocacy, information and referral, support services to unit detectives, assessments, short-term counseling, court accompaniment, and liaison. It is a requirement that a counselor be assigned to all cases involving a felony sex crime against an adult 17 or older, as well as other sex crime cases when victims/witnesses require assistance.
In addition to police advocates, victim services are provided by SafePlace, a rape crisis center that provides victim advocate and counseling services to victims for the duration of the case.

Detectives will typically arrange their interview with the victim to include the Victim Services Counselor. Prior to the interview, the detective and counselor will discuss the counselor’s role. In some cases, the counselor will meet with the victim before the interview to provide crisis stabilization counseling, assess the victims function level or ability to undergo an interview, and/or explain to the victim what the interview will be like. If agreed to by detective and counselor before the interview, a counselor may be present during the interview. If present, the counselor might only offer emotional support if the victim is distressed or may assist in the interview.

Counselors may also be present/assist at composite drawing appointments, photo arrays, live line-up viewings, and pretext phone calls. Victim service counselors work with the victim until the case is submitted to a prosecutor or longer if the victim requests.

All full time counselors have at least a Master’s degree in a mental health field and are trained in crisis response, the court system and area resources. They are able to call the prosecutor to answer any questions they may have about a particular case or the criminal justice system and procedures generally.

There is no privilege between victim and victim advocate, regardless whether the advocate is a counselor from law enforcement, a Victim/Witness coordinator from the District Attorney’s Office, or is from another source (e.g., a rape crisis center). There is a privilege between the victim and legal counsel.

2. District Attorney's Office

The Victim Witness Division is staffed with counselors who work as part of a team with attorneys, investigators and secretaries from the Trial, Grand Jury, and the Family Justice Divisions. When needed, victim/witness staff will also work with the Appellate and Special Prosecution Divisions. A Victim/Witness counselor will work with the victim once the case has been submitted to a prosecutor. Prosecutors consider them very valuable, especially for preparation before the Grand Jury hearing.

One of the major goals of the Victim Witness Division is to help victims of crime and protect their rights. The mission of the Victim/Witness Unit is to reduce victim and witness apprehension about participation in the prosecution of a case and to increase their willingness and ability to testify effectively and without fear. To fulfill this goal, a variety of services are provided, including: short term counseling services and crisis intervention, information on the court and criminal justice system, court preparation and accompaniment, assistance with Victims Compensation Claims and Victim Impact Statements, and referral services for sources of...
assistance. In addition, staff members supervise bachelors and masters level social work college interns.

The Victim/Witness division also provides witness coordination services. These services are extended to subpoenaed witnesses and include court information, travel and lodging arrangements, assistance with reimbursement forms, interpreter services and special services required by persons with disabilities. Counseling referral services are also available for witnesses. Prosecutors consider the services of the Victim Witness division very valuable, especially for preparation before the Grand Jury hearing.

3.  **Non-Government Organizations**

   a.  **Texas Association Against Sexual Assault (TAASA)**

   The Texas Association Against Sexual Assault (TAASA) is a statewide coalition that oversees 84 rape crisis centers in Texas. It provides resources and training to rape crisis centers and pursues policy goals that provide support services to victims. TAASA engages in community outreach and education, as well as providing training to law enforcement. It has provided very little training to date to prosecutors and judges but would be willing to do so. TAASA believes that further training could potentially increase the number of cases that are charged or taken to trial.

   The University of Texas (UT), which with 50,000 students could itself be a mid-sized city, has an organization called “UT Voices Against Violence,” which works on sexual assault awareness and prevention. According to TAASA, there is a higher sexual assault rate for those aged 18-24 than in the rest of the jurisdiction. Students at UT generally report assaults to campus police.

   TAASA has provided training for law enforcement officers, especially in smaller jurisdictions where there is a lower budget for training. Training has focused on education about “victimology,” counter-intuitive behavior by victims, what PTSD and trauma looks like, and types of sex offenders. There are several webinars available on the website [www.elearning.org](http://www.elearning.org) for law enforcement officers.

   Funding is provided for training and the rape crisis centers from Crime Victims Compensation, in the form of grants from money not paid directly to victims. To find additional funding, the Rape Crisis Centers came up with a proposal to receive funding from a “Pole tax.” The tax is a $5 cover charge for everyone who walks through the door of this type of establishment. To date, there has been 14 million dollars collected, but it is still being held in a fund pending appellate challenges to the law. If it is upheld, it will double government grants for rape crisis centers.
4. **Victim Support**

Rape Crisis Centers and victim lawyers provide support to victims to help them feel a sense of justice in other ways other than going through the criminal justice system. These may include applying for protection orders, assisting a victim in getting out of a lease without penalty where the sexual assault occurred where they lived and applying for unemployment where the victim leaves a job because the sexual assault occurred at work.

There are no victim advocate privileges for any non-lawyer victim advocates in Texas, whether the advocate is employed by the prosecutor, the police, or as a private, non-governmental organization.

There is some consideration over how best to locate services that support sexual assault victims. Most rape crisis centers support both domestic violence and sexual assault victims, often because domestic violence often includes sexual assault. However, many facilities and organizations (such as SafePlace) then become best known as a shelter for domestic violence and services provided for sexual assault victims can be overlook or underutilized.

E. **Victim Legal Counsel**

It is not typical that victims have legal counsel. Only a small percentage of victims have a victim’s counsel. Prosecutors typically see it when the victim plans to pursue a civil suit. It was the opinion of the prosecutors interviewed that in such cases, that the criminal case suffers, as juries tend to form the opinion that a civil suit for monetary damages was an incentive to make a sexual assault allegation. Victim’s attorneys do have privilege.

Texas Legal Services (TLS), as its name implies, is a non-profit organization funded in part by federal and state grants that provides victims with legal services. Clients typically are referred to TLS via rape crisis centers, find out about TLS through a self-search or other referral. In addition to assisting with protective orders (although TLS tries not to duplicate local services), TLS provides assistance in civil cases where the victim is sued for defamation, malicious prosecution, etc.

TLS attorneys also represent victims who need to break their lease because of the sexual assault incident, is being evicted, and in Title IX cases where the offender may attend the same school as the victim.

A majority of consultation TLS provides is over the phone counseling with victims. It does not encourage victims to report; rather it provides victims information so that they can make their own decision.

In some cases, a TLS attorney will be involved on the victim’s behalf during a prosecution. Although it happens rarely, the TLS attorney can help to prepare a victim to testify at trial. One TLS attorney noted that a prosecutor was “skeptical in the beginning but thankful in the end,” in
a case where this had occurred. They also assist with preparation of victim impact statements. Victim’s attorneys, TLS attorneys included, do not typically sit in on interviews.

Generally, TLS attorneys want to establish a cooperative relationship with the prosecutor. In cases where a TLS attorney is working with a victim, they will often provide more explanation about a plea agreement than the prosecutor has time for. Although Texas victims have a right to be present through the entire trial, judges in Texas rarely permit it to occur. Victim attorneys have been involved in cases to enforce this right.

In cases where defense counsel attempts to subpoena a victim’s medical record, a TLS attorney will assert standing and move to quash the subpoena. Victim attorneys are not entitled to discovery and prosecutors generally will not share discoverable evidence. They can obtain a police report by sending a letter of representation to the police department.

Victims have standing in court, according to the Texas Constitution and statute, but there is no enforcement mechanism (e.g., no state office charged with enforcing victim’s rights). There is an effort to expand victim’s rights, such as permitting victims to sit at the prosecutor’s table vice the gallery during trial and provide an impact statement to the court before sentencing takes place.

F. Criminal Procedure

1. Reporting Sexual Assault

There is no requirement under Texas law to report an adult sexual assault to law enforcement. Said another way, if a victim goes to a hospital or a rape crisis center for treatment but does not want to report a sexual assault, there is no requirement that the hospital or rape crisis center do so. Approximately 18% of sexual assaults in Texas are reported. If a victim seeks medical care within 96 hours of a sexual assault, the hospital will provide a free examination to the victim and hold the evidence for 2 years, even if the victim does not want to make a report to law enforcement.

Only about 3% of cases that begin that way turn into a reported case. If the victim does not want to proceed with a police investigation, it is called a ‘non-report case.’ Professionals interviewed indicated that there was very little, if any, emphasis placed on converting a ‘non-report’ case into a ‘reported’ case.

2. Charging

Sex offenses are generally not charged if the victim does not want to go forward, although exceptions occur. If there is a decision not to charge the case, the prosecutor will write a memo to file with the explanation; this is considered work-product.
Generally, a case will not be charged if it is unlikely the case can be proven beyond a reasonable doubt. Prosecutors find that victims often equate a “not guilty” verdict to the jury not believing the victim, and find this is often worse for victims than not charging the case in the first place.

Prosecutors find victim advocates to be invaluable as a “sounding board” and to help assess how a jury might view the credibility of a victim and the victim’s ability to go through the trial process.

3. Preliminary Hearing

Before a felony sex offense case is filed with the court, it must go to a Grand Jury. Normally the prosecutor, victim and investigator will be present at the Grand Jury hearing. Victims are not normally expected or required to testify but are made available if the Grand Jury has questions. The investigator will normally provide testimony. The Grand Jury decides what charges, if any, to indict on. A Grand Jury is educated on the type of evidence it can expect to receive for non-stranger sexual assaults. This is part of Unified Grand Jury training, given to ensure that Grand Juries understand the offenses and the type of evidence they can expect to receive.

If a case is charged, there will typically be pre-trial hearings to determine the admissibility of the defendant’s statements and other evidence.

4. Pleas

Plea offers that involve a reduction of charges or permit a defendant to plead guilty to an offense that doesn’t require sex-offender registration must be staffed by, or approved by, the court chiefs or the division directors.

Defense attorneys often attempt to negotiate so that the defendant is not pleading to an offense that requires sex offender registration. Discussions take place out of court and prosecutors will typically look to the defense attorneys to provide information that shows there are weaknesses in the government’s case before a reduction will be approved.

5. Defense Interviews

Defense interviews, if accomplished, are done without the knowledge or participation of the prosecutor’s office.

6. Trial

There are two Assistant District Attorneys at counsel table in each trial. The investigator is not permitted to sit through the trial until after testimony and will then take a seat in the gallery. Likewise, even though victims’ have a right to be present; they will typically be sequestered until after testifying.
The Victim Witness advocate will often assist in coordinating witnesses. The advocate will also accompany the victim if the victim wants to observe the trial after testifying.

Experts are typically not called in adult sexual assault trials, unless the expert testifies without fees. Sometimes SafePlace advocates will testify regarding Trauma Informed Care or other issues regarding a victim’s response to trauma.

7. Sentencing

Victim impact statements are currently allowed only after sentencing (either after a plea agreement or trial). The general consensus – from prosecutors, advocates and legal counsel – is that this is a system flaw.

Criminal trials are bifurcated in Texas. For jury cases, the jury will first make findings, after which the punishment phase begins. Defendants have the right to a jury in matters of punishment. The hearing can be contested, at least on certain issues. For instance, if the defendant alleges that there was consent for the sexual offense, the prosecution can submit evidence that the defendant had contact with other victims. While a judge could not award probation for a serious offense, a jury is able to award probation.

Cases will typically not be concluded for one and one-half to two years after the incident has been reported.

G. Best Practices

1. There is coordinated response to reports of sexual assault in this jurisdiction. The police department, particularly, has a coordinated response protocol that builds trust in the system and facilitates victim cooperation, while ensuring the victim’s needs are attended to.

2. Victim advocate services are provided from the reporting of a sexual assault case through the trial process and beyond. Victim attorneys are available in limited circumstances to provide advice and enforce limited rights.
According to the Code of Criminal Procedure, Chapter 56, Rights of Crime Victims, a victim of violent crime is (1) someone who is the victim of sexual assault, kidnapping, aggravated robbery, trafficking of persons or who has suffered personal injury or death because of the criminal conduct of another, (2) the close relative (spouse, parent, adult brother or sister, or child) of a deceased victim, or (3) the guardian of a victim. These rights also apply to victims of juvenile crime, including victims who suffer property loss.
Victims of Crime have the right to:

- receive adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;
- have their safety considered by the magistrate when setting bail;
- receive information, on request, of relevant court proceedings, including appellate proceedings, of cancellations and rescheduling prior to the event, and appellate court decisions after the decisions are entered but before they are made public;
- be informed, when requested, by a peace officer about the defendant’s right to bail and criminal investigation procedures, and from the prosecutor’s office about general procedures in the criminal justice system, including plea agreements, restitution, appeals, and parole;
- provide pertinent information concerning the impact of the crime to the probation department prior to sentencing;
- information about the Texas Crime Victims’ Compensation Fund and payment for a medical examination for a victim of sexual assault, and, on request, referral to social service agencies that provide additional assistance;
- information, on request, about parole procedures; notification of parole proceedings and of the inmate’s release; and the right to participate in the parole process by submitting written information to the
Board of Pardons and Paroles for inclusion in the defendant’s file for consideration by the Board prior to parole;
• a separate or secure waiting area at all public court proceedings;
• prompt return of any property that is no longer needed as evidence;
• have the prosecutor notify, upon request, an employer that the need for the victim’s testimony may involve the victim’s absence from work;
• on request, the right to counseling and testing regarding AIDS and HIV infection and testing for victims of sexual assault;
• request victim-offender mediation coordinated by the Victim Services Division of the Texas Department of Criminal Justice;
• be informed of the use and purpose of a victim impact statement, to complete a victim impact statement and to have the statement considered before sentencing and acceptance of a plea bargain and before an inmate is released on parole.

A victim, guardian of a victim, or close relative of a deceased victim is entitled to be present at all public court proceedings, with the consent of the presiding judge;

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 herein.
Art.56.045 CCP States that a victim of a sexual assault has the right to the accompaniment of a victim advocate during the sexual assault exam if an advocate is available at the time of the examination.

Please call your crime victim rights contacts in law enforcement and the prosecutor’s office for more information about victim rights in your community.

This card provided by the Crime Victim Services Division of the Office of the Attorney General.
For more information call:

CRIME VICTIM SERVICES
1(800)983-9933

www.texasattorneygeneral.gov

TOLL-FREE 1(877)TX4-VINE; 1(877)894-8463
The Rights of Crime Victims in New York State
Jurisdiction: Arlington County, Virginia

A. Introduction

Arlington is an urban county of about 26 square miles located directly across the Potomac River from Washington, DC. In January 2013, Arlington’s population was reported to be 212,900. It features a population density of 8,252 persons per square mile, making it one of the densest jurisdictions in the country. The following government installations are located in or near Arlington County: the Pentagon, Joint Base Myer-Henderson Hall, the Naval Sea Systems Command, and Marine Corps Headquarters.

B. Law Enforcement

1. Organization

The Arlington Police Department has a separate Special Victims’ Unit (SVU) consisting of 8 investigators, which is physically located in the same building as the Commonwealth’s Attorney office.

2. Investigation

Generally, when a report of a sexual assault is made to 911, a patrol officer will provide an initial response. A supervisor will notify detectives, who will assume responsibility for the investigation.

Initial charging decisions are typically made by the police when an arrest is made. Detectives consult informally with prosecutors, but there isn’t a formal process for consulting prior to an arrest on a sexual assault case. For alcohol facilitated sexual assault cases, detectives will typically contact the prosecutor and consult prior to making an arrest. In other cases, however, the prosecutor is generally contacted after charges have been made and an arrest warrant has been issued.

Detectives will continue to work with the prosecutor assigned to a case to follow up on evidentiary issues until the day of trial.

There is a different protocol for cases involving children. In those cases, prosecutors are involved from the beginning.

Most victim interviews are recorded. The interview is very detailed because typically it will be the only interview conducted until the prosecutor prepares the victim for trial. Normally, victim advocates are not present when the interview takes place, but there is consideration as to whether this should change so that victim advocates are available to support victims during the investigative phase of the case. In Fairfax County, Virginia, police based victim advocates are available to provide immediate support, build rapport with victims and offer referrals for counseling services when appropriate.
Suspect interviews are also recorded. In addition, police frequently use “sting” or pretext type calls to gain admissions from suspects. This is especially important where there is an issue as to consent.

In a typical year, there will be approximately 20 – 35 complaints of adult sexual assault investigated by a detective from the Arlington Police Department and another 12-30 complaints involving children.

C. Prosecution

1. Organization/Structure

The Commonwealth's Attorney's Office is responsible for prosecuting crimes committed in Arlington County, the City of Falls Church and all felonies and misdemeanors committed at Ronald Reagan Washington National Airport. There are 15 prosecutors in the Commonwealth’s Attorney’s office. While all prosecutors are assigned criminal cases of all types, as a practical matter there are three prosecutors in the office who primarily prosecute sexual assault cases. The three prosecutors also serve as a primary liaison to the police department for complex cases.

The office prosecutes approximately 60 felony sexual assault cases a year. These cases make up part of a prosecutor’s portfolio, which at any given times consists of 25-35 felony cases of all types. Prosecutors also handle juvenile and misdemeanor cases, so the numbers change frequently.

2. Experience/Training

Of the three prosecutors who concentrate in sexual assault cases, one is considered very experienced (she is the Deputy Commonwealth’s Attorney for Arlington County), the second is fairly experienced, and the third is considered a relatively new attorney.

3. Role in Investigations

Prosecutors’ involvement in investigations is limited. They are kept informed of the investigation and their role during the initial interview of the victim is usually limited to observation. They will review search warrant requests and typically consult informally with detectives during investigations.

D. Victim Services

The Commonwealth’s Attorney’s office has a total of 3 Victim-Witness Liaisons (VWLs) on staff. They work for the Commonwealth’s Attorney. They are involved in all sexual assault cases. While the neighboring jurisdictions of the City of Alexandria and Fairfax use members of local advocacy groups and police advocates at the time the investigation begins, Arlington County Commonwealth’s Attorney Office does not, at least at this time. It is considering
whether there is a way to expand their role to be involved at the time investigations are initiated but has not done so at this point. Prosecutors express confidence in the police department’s ability to work with and support victims during the early part of the investigation.

Sexual Assault Nurse Examiner (SANE) examinations are conducted at Fairfax hospital for cases occurring in Arlington County.

Generally, as soon as the police make an arrest and submit their report, the VWL from the District Attorney’s Office will make an attempt to contact the victim.

The VWL’s duties include explaining the prosecution function and criminal justice system, as well as potential limitations regarding their role in the case to the victim. The VWLs coordinate victim services, accompany victims to court hearings and sit in on prosecutor interviews. VWL advise victims of victim rights in the criminal system and provide written forms.

If there is a conviction, they will assist with preparation of a victim impact statement and make sure it gets to the court. If a Presentence Investigation Report is prepared, the VWL will make sure the Probation Officer includes it in the Report. The victim is permitted to present an impact statement without being cross-examined. In addition, the VWL will advise the victim of the right to restitution.

In addition to providing direct assistance, VWL refer victims to appropriate services including counseling services. They will continue to interact with victims even if a prosecution does not go forward.

VWLs and Victim Advocates (VAs) do not have any privilege or confidentiality vis-à-vis victims in Virginia. Prosecutors report that the services of a VWL are very helpful.

E. Victim Legal Counsel

Occasionally victims are represented by legal counsel (private victim legal counsel is not appointed) during sex offense prosecutions. They play no role in the proceedings in accordance with Virginia law. They typically represent victims for the purpose of filing a civil suit because of the sexual assault.

In our interviews conducted with prosecutors and investigators, there was agreement that victim legal counsel complicated prosecution. Generally, prosecutors do not conduct victim interviews while the attorney is present. Prosecutors do notify counsel that they will be talking to the victim directly, but they consider this an ethical dilemma, because they are talking to a represented party.

F. Criminal Procedures
1. **Charging Decisions**

Law enforcement decides what to charge, based on a probable cause determination. Often in sexual assault cases, the police department will call in/consult with a prosecutor before make a charging decision. Prosecutors typically do not have contact with the victim before a charging decision; although it can occur (sometimes victims will request a meeting for information about the process). The victim and VWL have little input into the charging decision. Even though police will charge a defendant, the charges can be modified by the prosecutor before trial or a plea occurs.

If there is a decision not to charge a case, there is no obligation to do a written declination form or letter. The most common reason to decline to charge is a lack of corroborating evidence. This occurs most frequently in alcohol facilitated crimes. If there is a decision made that the prosecutor cannot go forward on a case charged by the police or that a charge will be reduced, there will usually be a meeting to explain the circumstances and reasons to a victim. These are generally difficult situations and VWLs are invaluable supporting the victim during and after these meetings.

Criminal actions by a complaining victim are considered on a case-by-case basis. They have prosecuted crime victims for perjury and fabrication. However, minor offenses (e.g., underage drinking) are never charged.

2. **Preliminary Hearing**

In Virginia, the preliminary hearing is a probable cause inquiry at which the victim often testifies. Victims are subject to full cross-examination. Defense counsel will use it as a discovery tool. Prosecutors typically meet twice with the victim before the preliminary inquiry - once for an initial meeting and once to prepare for the hearing. Prosecutors use these meetings to assess the victim, including the ability to testify effectively. Preliminary inquiries occur 45 days after a charging decision is made but they can be continued.

Victims are advised during initial interviews that they are not required to speak with defense attorneys. There is no formal process for plea hearings, but the prosecutors do ask victims whether they have talked to defense counsel.

3. **Pleas**

Plea offers and negotiations are conducted informally. Senior prosecutors can extend plea offers, but junior prosecutors must seek approval from the Deputy Commonwealth’s Attorney. Plea offers are not extended before a prosecutor discusses the plea offer and reasons for making it with the victim.

Plea offers favorable to the defense are often offered when the victim does not want to go forward or has recanted some of the statements that the original charges were based on. Many
judges understand the reasons these low plea offers are made, but others may challenge the prosecution’s recommendations for low sentences made in the plea offer.

4. **Trial**

In preparation for trial, the victim will come in to meet with the VWL and prosecutor but only to discuss the process. After that meeting, a second interview will occur to prepare the victim for trial and for direct/cross examination preparation with the prosecutor. The VWL is present during these sessions and sits with the victim during the trial.

Very few expert witnesses are used by the government at trial. Mostly, it is a matter of budget, but prosecutors also feel that many cases can be resolved effectively without expert testimony.

Cases are usually resolved within five months for in-custody defendants and nine months for defendants who are out of custody but on occasion will be extended longer than a year.

5. **Sentencing**

Sentencing guidelines are used in Virginia, based on the seriousness of the offense and the defendant’s prior criminal history. Virginia is one of five states that have sentencing by jury. The jury, which is advised of the minimum sentence permitted under the guidelines for the convicted offense, provides a recommended sentence to the judge. The judge cannot award a more severe sentence than was imposed by the jury but can impose a lesser sentence. Prior to the sentence being imposed by the judge, a Pre-Sentence Investigation is completed.

G. **Best Practices**

1. If there is a decision made to modify the UCMJ to include mandatory minimum sentences, the sentencing procedures used in Virginia could be a good model, at least as an initial starting place.

2. Arlington County’s system for assigning prosecutors to handle sexual assault cases could be a role model for some smaller military commands. For commands with few prosecutors, selecting a few attorneys to primarily be assigned to certain types of sexual assault cases could result in more experienced prosecutors, without modifying the existing command structure significantly.
A Summary of Virginia’s Crime Victim and Witness Rights Act

Your Rights and Responsibilities

Department of Criminal Justice Services

Victims Services Section

December 2008

www.dcjs.virginia.gov
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**“Injustice anywhere is a threat to Justice Everywhere”**

-Martin Luther King
**Introduction**

This brochure provides information about the rights and responsibilities of crime victims and witnesses under the ‘Crime Victim and Witness Rights Act’ (sometimes called the Victims Bill of Rights) and related laws.

These victims’ rights laws focus on the provision of information and assistance to victims as their cases proceed through the criminal justice process. Victim/Witness programs, and other local victim assistance programs, can also provide information, support, and assistance to victims outside the formal criminal justice process.

This brochure and other victim assistance brochures and information are available at www.dcjs.virginia.gov/victimsrights

Generally, victims statutory rights and responsibilities fall within the following areas covered by this brochure: Protection, Financial Assistance, Notice of Court Dates and Other Court-Related Assistance, Victim Input, and Post-Trial Assistance and Other Notices.

**Definition of Victim**

The Victims Bill of Rights and most other victims’ rights laws recognize the following individuals as crime victims in Virginia: Anyone suffering physical, emotional or financial harm as a direct result of a felony or certain misdemeanors. *(The misdemeanors are: assault and battery, assault and battery against a family or household member, stalking, sexual battery, attempted sexual battery, and driving while intoxicated).*

The definition of victim includes:
- Spouses and children of all victims
- Parents and guardians of minor victims
- Parents, guardians, and siblings of mentally or physically incapacitated victims or victims of homicide
- Foster parents or other caregivers, under certain circumstances

**The Victims Bill of Rights is intended to ensure that crime victims:**
- Have opportunities to make the courts aware of the full impact of crime;
- Are treated with dignity, respect, and sensitivity and that their privacy is protected;
- Are informed of their rights;
- Receive authorized services; and,
- Are heard at all critical stages of the criminal justice process.

**Who Can Help**

If you have been the victim of a crime, it may help to talk with a knowledgeable and understanding person about your feelings. This is difficult, but most victims report that they feel better after freely and confidentially discussing concerns and emotions they are experiencing.

Reach out to someone with whom you feel comfortable. The most important step in recovery is to talk to someone you trust.

There are programs and services available in your area designed to assist victims, their families, and others in dealing with the victimization, and the complexities of the criminal justice system.

You can find out about these services by contacting the office of the local law enforcement agency, commonwealth’s attorney or the victim/witness, sexual assault, domestic violence, or child abuse programs in your area. Telephone numbers for these agencies and programs should be in your local phone book.

For information, assistance, and referrals you can also call statewide toll-free numbers including:

- Virginia Crime Victim Assistance INFO-LINE 1-888-887-3418
- Virginia Family Violence and Sexual Assault Hotline 1-800-838-8238 (V/TTY)
The Right to be Informed
To help to ensure that crime victims are informed of their rights, the law requires that investigating law enforcement agencies (for example, police departments or sheriffs’ offices) provide victims with written information about their rights, including their right to leave from work to attend court. Victims should be given a telephone number to call in order to receive further information and assistance regarding their rights. They should also be provided with the names, addresses, and telephone numbers of the Commonwealth’s Attorney and the investigating law enforcement agency.

Your local law enforcement agency may use this brochure as part of its effort to assist you and to meet this requirement.

Confidentiality
Crime victims, and certain witnesses, have the right to request that certain information remain confidential. For example, a crime victim may request that courts, police departments, sheriff’s offices, commonwealth’s attorneys, defense attorneys, and the Department of Corrections not disclose, except among themselves, his or her home address, telephone number, or place of employment. To request confidentiality, the victim must file a Request for Confidentiality by Crime Victim Form (DC-301) with the magistrate, court, commonwealth’s attorney, police department or sheriff’s office in the locality where the crime occurred. Forms may be obtained from the magistrate or clerk of court. You can consult with the commonwealth’s attorney to get a clear idea of what information may be kept confidential in your case.

With some exceptions, law enforcement agencies may not disclose information which directly or indirectly identifies victims of sexual assault or sexual abuse.

Additionally, victims of sexual assault or sexual abuse may request that any Court of Appeals or Virginia Supreme Court decisions not contain their first and last names.

Important Reminders:

1. Victim/Witness programs, and other victim assistance programs, are available to assist you and to provide information, so that you can make informed decisions.
2. Not all rights and services are applicable in every case.
3. To receive information and assistance, victims also have certain responsibilities, including having to file requests to be notified or offer input. For example, to receive notices regarding release of offenders, court dates, and appeals etc., victims are required to provide contact information to certain agencies. To protect your rights to receive notices and offer input, it is extremely important that you ensure that the commonwealth’s attorney and other agencies have accurate contact information. VINE (Victim Information and Notification Everyday) is an automated system which automatically notifies registered victims about changes in custody status of particular offenders. For more information about the VINE Program see www.vinelink.com or call 1-800-467-4943.
4. Victims’ responsibilities related to receiving notices and offering input are summarized in this brochure. Your local victim/witness program can provide further information.

Protection
Victim Safety & Protective Orders
Virginia has a number of laws that promote victim safety and offender accountability. These include laws authorizing protective orders. It is important to remember, however, that while protective orders may offer you legal protection, they cannot necessarily protect you from violence.

If you believe that you are in immediate danger, dial 911 for assistance. If the danger is not immediate, you may wish to contact your local domestic violence, sexual assault, or victim/witness program to discuss your concerns and assess your options. As indicated above, numbers for these programs are listed in your local phone book or may be found by contacting either of the hotlines listed in this brochure.

A protective order is a legal order issued by a magistrate or a judge to protect one person from physical abuse or threatening behavior by another. A protective order can be issued in cases of domestic violence, stalking, and crimes resulting in serious bodily injury, to protect the health and safety of an abused person and his/her family or household members.
More information about protective orders and how to obtain them is available from many sources, including your local victim/witness program, domestic violence shelter, or the Court Service Unit of the local Juvenile and Domestic Relations District Court. Additionally, brochures on this topic are available at www.dcjs.virginia.gov/victimsrights.

### Financial Assistance

#### Restitution

Under certain circumstances, the defendant may be ordered to repay you, at least partially, for your losses. The commonwealth’s attorney and/or victim/witness program staff can provide more information about local restitution procedures and referrals to appropriate local personnel. Court ordered restitution is no guarantee of repayment by the defendant. It is extremely important that the court clerk, or other agency responsible for sending you any restitution collected, have accurate contact information for you.

#### Victims’ Compensation

If you are the victim of a crime in Virginia and if you were injured during the crime or you are the surviving spouse, parent, grandparent, sibling, or child of a victim who dies as a result of a crime, then you may be compensated for certain unreimbursed losses such as loss of earnings, medical and counseling expenses, or funeral expenses.

The commonwealth’s attorney and/or victim/witness program staff can advise you on how to apply for victims’ compensation and, if necessary, assist you with the application. You may contact the Criminal Injuries Compensation Fund directly by calling 1-800-552-4007. This number is toll-free, statewide.

#### Property Return

To assist in the investigation and prosecution of certain crimes, law enforcement authorities may hold your property as evidence. The law allows them to photograph and return certain evidence to you before the trial. However, law enforcement may hold your property until after the trial and any appeals. The commonwealth’s attorney and/or victim/witness program staff may be able to assist you in the return of your property.

#### Compensation for Witnesses

Witnesses traveling from out of town may be entitled to payment for mileage, tolls, parking, meals, and lodging for each day’s attendance in court. Ask the victim/witness program staff, commonwealth’s attorney, or clerk of court whether and how you can be reimbursed.

#### Civil Actions

Crime victims can bring civil lawsuits against perpetrators or other responsible parties in order to hold them accountable for harm suffered. A civil action may provide compensation for damages not covered by restitution or victims’ compensation. Victims have the greatest probability of being fully compensated when they file civil actions in addition to, rather than instead of, seeking restitution or victims’ compensation. You will need the help of a private attorney to pursue a civil action.

The National Crime Victim Bar Association provides victims referrals to local attorneys specializing in victim-related litigation. The referral service can be reached at 1-800-FYI-CALL (394-2255) between 8:30 a.m.–5:30 p.m. (EST) Monday through Friday.

### Notice of Court Dates and Other Court-Related Assistance

#### Notice of Court Dates

You must give the commonwealth’s attorney your current name, address and telephone number, in writing, if you wish to be notified in advance of the scheduled court dates for proceedings including:

- Preliminary hearings
- Plea agreement hearings
- Trials
- Sentencing hearings

#### Notice of Defendant or Prisoner Status and VINE

The law indicates that in order to receive notices about the release of a defendant or prisoner, or other status changes, or to offer parole input, appropriate officials (sheriff, Department of Corrections, jail superintendent, Parole Board) must have your complete contact information.
VINE (Victim Information and Notification Everyday) is an automated system which automatically notifies registered victims and others about certain changes in the custody status of particular offenders. Victims and other concerned citizens can register at www.vinelink.com or by calling 1-800-467-4943.

Enrollment in VINE does not substitute for official registration with the Virginia Department of Corrections or some local jails. Contact your local victim/witness program, local jail, or VA DOC Victim Services Unit at 1-800-560-4292 for additional information and assistance.

Employer Intercession

If you are subpoenaed to court, or otherwise required in writing by the court to appear, and you give reasonable notice at your workplace, your employer may not fire you, discipline you, or require you to use vacation or sick leave in order to go to court. However, your employer is not required to pay you for your time in court. If necessary, the commonwealth’s attorney or victim/witness program staff can notify your employer of the law that protects you. (See §18.2-465.1)

Whether or not you have been specifically required by the court to appear, the law (§40.1-28.7:2) requires every employer to allow an employee who is a victim of crime to leave work to be present at all criminal proceedings related to a crime against the employee. The term “criminal proceedings” means any proceeding at which the victim has the right or opportunity to appear.

The victim is responsible for providing the employer with materials summarizing victims’ rights, the law which authorizes leave to attend criminal proceedings, and any written notice of criminal proceedings received by the employee. This brochure may be provided to employers by victims in order to provide a summary of victims’ rights.

Employers may limit the amount of leave provided, if it creates an undue hardship to the employer’s business. Additionally, employers are not required to pay victim/employees who leave work to attend criminal proceedings. Employers may not dismiss or discriminate against a victim/employee who leaves work to attend criminal proceedings.

Separate Waiting Areas

Some courthouses have separate waiting areas for victims and witnesses, in order to provide them privacy and protection from intimidation. If you are worried about having to wait in an area near the defendant or the defense witnesses, contact your local victim/witness program, the commonwealth’s attorney’s office, or the clerk of court or bailiff at the courthouse, to see if a separate waiting area is available to you.

Right to Remain in Courtroom

Victims have the right to remain in the courtroom during all court proceedings (bail or bond hearings, preliminary hearings, trials, sentencing, etc.) that the defendant attends, unless the judge has determined that the presence of the victim would impair the conduct of a fair trial.

Additionally, in any case involving a victim who is under the age of eighteen, the court may permit an adult chosen by the victim to remain in the courtroom as a support person for the victim.

Interpreters

If you cannot speak English or you are hearing impaired, a court-approved interpreter may be appointed to assist you during the criminal justice process, at no cost to you.

Closed Preliminary Hearing

In cases of sexual assault, preliminary hearings may be closed to the public. You may wish to speak to the commonwealth’s attorney to find out if your preliminary hearing can be closed. However, trials are open to the public.

Closed Circuit Television Testimony

To reduce the trauma experienced by child victims and witnesses when they must testify, the law permits the use of closed-circuit television in certain criminal proceedings, including preliminary hearings, involving alleged offenses against children and murder of a person of any age.
Victim Input

Right to Plea Agreement Consultation

If you are a victim of a felony and you submit a request in writing, the commonwealth’s attorney must consult with you, either verbally or in writing, regarding the contents of a proposed plea agreement and your views concerning plea negotiations. If you submit to the commonwealth’s attorney a written request to receive notice of any proceeding in which a plea agreement will be offered to the court, the commonwealth’s attorney is required to provide advance notice, if practicable.

It is important to understand that 1) the commonwealth’s attorney directs the prosecution and has authority to enter into a plea agreement, whether or not you agree with it, and 2) the court can accept a plea agreement, about which you were not consulted, given good cause.

Victim Impact Statement

After the defendant is found guilty in circuit court, the judge may consider a Victim Impact Statement(s) in determining the offender’s sentence. The Victim Impact Statement gives the victim the opportunity to tell the court, in writing, the impact of the crime(s). Victims may also be given the opportunity to testify, at the sentencing hearing, regarding the impact of the crime(s).

Post-trial Assistance and Other Notices

Post-Trial Assistance Available

After the trial is over, you are eligible to be informed of certain information about the outcome of the case (disposition). The commonwealth’s attorney can, except in some cases involving juvenile offenders, provide case disposition information. If the defendant was convicted, this information includes the crimes for which the defendant was convicted and the sentence imposed. If known, information about the defendant’s appeal rights can also be provided. Additionally, the commonwealth’s attorney may be able to assist you, or provide the telephone number of offices to contact, if the defendant fails to pay restitution, as ordered. Your local victim/witness program can provide further information about available post trial assistance and procedures.

Notice of Release on Bail

Defendants are sometimes able to appeal their convictions or sentences and may be released on bail while those appeals are being considered.

The law indicates that when a defendant is released on bail pending the outcome of an appeal, the jail, or other agency that had custody of the defendant, must notify the victim of the defendant’s release, as soon as it is “practicable” to do so.

Please talk with jail or sheriff’s office staff or victim/witness program staff about local bail release notification procedures which may include VINE registration.

Notice of Direct Appeals and Habeas Corpus Proceedings

You must give the Attorney General’s Victim Notification Program your current name, address, and telephone number, in writing, if you wish to be notified of the filing, status, and disposition of:

- A direct appeal to the Court of Appeals of Virginia and/or Supreme Court of Virginia
- A state and/or federal petition for a writ of habeas corpus

For more information, contact the Attorney General’s Victim Notification Program at (804) 371-7763 or 1-800-370-0459.

Parole and Parole Input

Parole was abolished in Virginia for any offender who commits a felony crime, on or after January 1, 1995. Such an offender is not eligible for parole and will serve at least 85 percent of his or her prison sentence.

However, most offenders who committed crimes before January 1, 1995, are eligible to be considered for parole. Crime victims, who wish to have input into the parole process, for parole eligible prisoners, may do so by contacting the Virginia Parole Board, Victim Input Program, 6900 Atmore Drive, Richmond, VA 23225, 1-800-560-4292.
For Additional Information and Assistance in Your Case

To receive further information and assistance regarding your rights, please contact your local victim/witness program. The name, address, and telephone numbers of the victim/witness program are as follows:

The name, address, and telephone numbers of the commonwealth’s attorney are as follows:

The name, address, and telephone numbers of the investigating law enforcement agency are as follows:

Statewide Toll-Free Numbers

For information, assistance, and referrals you can also call statewide toll-free numbers including:

- Statewide Toll-Free Victim Assistance INFO-LINE
  1-888-887-3418 (Hours of operation: Monday through Friday 9 a.m.-5 p.m.)
- Virginia Family Violence and Sexual Assault Hotline 1-800-838-8238 (V/TTY)

or visit our website at
www.dcjs.virginia.gov/victimsrights

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Jurisdiction: Snohomish County, Washington

A. Introduction

With a population of approximately 730,000, Snohomish County is Washington’s third most populous county. The Prosecutor’s Office receives criminal referrals from the Snohomish County Sheriff’s Office, the City of Everett Police Department, and several smaller cities within the county. The City of Everett has a population of 105,000. According to FBI Crime statistics, the city of Everett has a forcible rape rate of 46.7 per 100,000 inhabitants.

B. Law Enforcement

1. Organization

Both the Snohomish County Sheriff’s Office (SCSO) and Everett Police Department (EPD) have specialized units which investigate sexual assault cases. Investigators in the Snohomish County Sheriff’s Office (SCSO) and Everett Police Department (EPD) have 3-5 years of experience before applying or being assigned to a specialty unit within their organization, such as a unit that investigates identity theft and property crimes, drug crimes, or other assaulitive crimes against persons. Both SCSO and EPD officers in the Special Investigations Unit (SIU) have 6-16 years of experience before joining the unit and are some of the most experienced in the force.

2. Investigation

Sex offenses are generally reported via a 911 call. A patrol officer will make an initial response. A detective will either respond at the scene if there is one to investigate, to the hospital if the victim is taken there, or receive the case the next day. If the victim presents at a hospital and makes a report, a victim advocate from a community advocacy program will respond, and a law enforcement officer will also respond if the victim wishes to make a report.

Detectives record victim interviews unless the victim declines. Washington is a two-party consent state; therefore, the detective must record the victim’s consent on the recording. A detective will usually interview an adult victim. If there was collateral misconduct by the victim, such as drug possession or prostitution, the investigator will generally advise the victim that that law enforcement is not investigating/concerned with the collateral misconduct, because knowing what truly happened is more important.

Suspect interviews are also recorded if consent is received.

Detectives from the Snohomish County Sheriff’s Office are physically housed at Dawson Place. Dawson Place also has law enforcement offices for other police agencies. The multidisciplinary setting provides an opportunity to discuss difficult cases with members of the multi-disciplinary team on both a formal and informal basis. It also provides the ability to
coordinate investigations with other participating agencies to ensure that system trauma is
eliminated or minimized, especially with child victims. Both the EPD and SCSO Special
Victim’s Units report that a much larger percentage of their sexual assault investigations involve
child victims rather than adult victims.

   Law enforcement refers criminal cases to the Snohomish County Prosecutor’s Office for
consideration of charges. There is a great deal of communication about cases between law
enforcement and deputy prosecutors prior to an arrest being made or a case being submitted to
the prosecutor’s office for review and charging. Much of it is informal, but as indicated above,
the multidisciplinary team approach and setting also has formalized working groups that give
input on case investigations when appropriate.

C. Prosecution

   1. Organization

       The Snohomish County Prosecutor’s Office criminal division is divided into units which
prosecute certain types of crime in each. The Special Assault Unit (SAU) prosecutes adult sex
offenses and child physical and sexual abuse and is physically located at the Dawson Place child
advocacy center. This center is the only one in the state that co-locates medical, mental health,
law enforcement, prosecution, victim advocacy, and social services for physical and sexual abuse
victims. SAU consists of seven deputy prosecutors (including the lead prosecutor), two victim
advocates, and other support staff.

       SAU cases are prosecuted vertically, meaning the same deputy prosecutor and victim
advocate will remain on the case from charging until the conclusion of the case.

       The Criminal Division also contains a Victim Witness Unit that provides assistance and
support to victims and witnesses, primarily in units that prosecute crimes against persons. The
Victim Advocate is generally the first contact a victim will have with the prosecutor’s office, and
will continue to work with the victim through the entire case, and in some cases, post-trial.

   2. Experience and Training

       Prosecutors typically have between 4-6 years of experience before they are considered for the
SAU. They will prosecute misdemeanors for the first 2-3 years, then move on to a felony unit
such as the non-violent/drug unit or unit that prosecutes juvenile cases. After four to six years of
experience, a deputy prosecutor will be assigned to SAU or another specialized crime unit.

       It is expected that prosecutors will rotate assignments throughout their career. This means a
prosecutor may spend 2-3 years in the SAU before rotating to another unit, but will likely return
to the SAU later in his or her career. The office believes this prevents burn-out, gives the
prosecutor a better rounded experience and allows for fresh ideas to come in to a unit.
Attorneys in the SAU can expect to have 20 charged/active cases at one time, with another 20 uncharged cases awaiting a charging decision.

There is no formal training protocol for prosecutors assigned to the SAU, but new prosecutors train informally by observing other prosecutors, attending state training on sexual assault, and law enforcement training on topics such as victim psychology and recanting victims. Prosecutors will generally attend formal trainings put on by other state agencies at little or no cost to participants, and may also attend other national training seminars if costs permit.

A lead deputy prosecuting attorney supervises about 5-6 other deputy prosecuting attorneys. The lead attorney reviews files when they come in and assigns them to a prosecutor to make a charging decision. The lead attorney will review all charging decisions and decline decisions made by the prosecutor. The lead attorney will review plea agreements that fall outside standards or reduce the charge from the original charge.

3. Investigation

Prosecutors do not have a direct role in the initial contact and interview of a victim, although they are available to the detective working the case to consult, answer questions, and review search warrants.

The prosecutor generally begins working with investigators early in the investigation. Being co-located means prosecutors and investigators have easy access to each other and are able to consult informally in addition to regular team meetings.

The prosecutor will usually meet with the victim prior to charging (especially in non-emergent cases) to assess the victim’s ability to participate in the process, desire to proceed, etc. Initial discussions regarding plea offers will also typically occur at this point. A victim advocate from the prosecutor’s office will attend these meetings.

D. Victim Services

Victim advocates employed by the Snohomish County Prosecutor’s Office staff the SAU as well as other criminal units. They are involved in every case assigned that is received from law enforcement, both charged and uncharged. In addition, community-based victim advocates are also available to support victims, but do so more often with child victims or on homicide cases. Both types of advocates are physically located at Dawson Place, as well as elsewhere in the community. Every case will have a victim advocate; in some cases an SAU victim advocate and a community-based victim advocate will both be used on a case.

Victim advocates in the SAU will typically have a background in counseling or social work. Like prosecutors, they will generally begin as advocates on misdemeanor domestic violence cases and progress to a felony unit.
SAU victim advocates have no privilege, so they explain to victims that they may need to tell the prosecutor or others about their contact. Their duties include helping the victim understand and navigate the justice system, addressing concerns, scheduling appointments, discussing charging decisions, and ensuring the victim’s concerns and desires are conveyed to the prosecutor. They also work to protect victim rights by ensuring that victims are notified of bail hearings and other court dates and they are permitted to be present and their views are accounted for when appropriate. Prosecutors consider victim advocates full partners and they are able/encouraged to represent the victim’s views, even if the victim’s views or opinions are different from those of the prosecutor assigned to the case.

Community-based advocates are always available to victims. They are able to sit with the victim during law enforcement interviews, and/or attend meetings and interviews with the prosecutor if the victim requests.

E. **Victim Legal Counsel**

Victims are not typically represented by legal counsel during sex offense prosecutions, but there is movement toward victim representation for limited reasons, such as asserting the victim’s desire to not release medical/counseling records. Thus far, there have not been enough cases in Snohomish County to assess the role of victim’s counsel.

The bulk of prosecutors’ experience with victim legal counsel has been in regard to cases where an attorney represents a victim with an eye toward a civil suit against the defendant or 3rd party. The prosecutor normally advises the victim and attorney that it is better to wait to proceed with any civil case until the criminal case is complete, because of the concern a jury might see the civil case and potential for monetary damages as a possible reason for the victim’s testimony. Generally, these attorneys play a small part (or no part) in the criminal case.

F. **Public Defender**

The Snohomish County Office of Public Defense (OPD) contracts with the Snohomish County Public Defenders Association (Association) to provide public defender services after OPD makes a determination of indigence in a particular case. The Association consists of about 40 attorneys, with 20 assigned to misdemeanors, 12 assigned to felony crimes at the trial level, and the remainder litigating civil mental health commitments and felony sex predator hearings.

An attorney will typically carry about 60 active cases at any given time, but only a few of those will be serious offenses (murder, sexual assault). Most new hires have little trial experience. They will be assigned to work misdemeanor cases from 2 to 4 years before ‘graduating’ to felonies, where they will first work probable cause/bail hearings and ‘expedited’ felony cases, which are less serious felonies that often will end in a misdemeanor guilty plea.
There is a training protocol for sex crimes. Attorneys are trained by the lead attorney for the felony unit and the Association’s Assistant Director. In addition to serving as second-chair on sex crimes cases, attorneys participate in legal education seminars focused on sexual offenses.

Attorneys do have available to them investigators employed by the Public Defender’s Association, although their numbers are limited. Very few of them were formerly in law enforcement. Core duties for in-house investigators include interviewing witnesses, locating potential defense witnesses, and serving subpoenas. There is no training protocol for investigators, although one is being developed.

When a defense expert is needed, there is a process for getting one funded through the court. The defense will file an ex-parte motion for funds and make argument to the judge that the witness is needed. The request, and the approval or denial by the court, is not subject to public release until the case is concluded. Sex assault cases commonly involve experts on sexual deviancy.

The relationship between public defenders and SAU prosecutors has generally been good, although there are sometimes disagreements about the handling of sex offense cases. One of the disagreements involves which cases the prosecutor should make favorable plea offers on rather than move for a contested trial. Defense attorneys also have some disagreement over whether declination memos written by prosecutors should be released in certain cases.

The public defender observed that the multidisciplinary team approach can lead to an outsider’s view (or a defense attorney’s view) that the professionals are all one entity and not separate entities that use their own professional judgment. The public defender observed that their office sees very little division between investigators, victim’s advocates and prosecutors. These defense attorneys suspect this has led to a less critical look at evidence and witnesses because of what has become a ‘team’ mentality.

Defense interviews with victims are arranged by the victim advocate, after a request is made by the defense. The victim advocate and prosecutor attend the interview, as does the defense investigator. The interview may be recorded with the consent of the victim.

Medical records and mental health records are difficult to obtain. These requests typically will proceed to an in-camera review.

The defense counsel interviewed acknowledged that they have no influence on charging decisions, because they aren’t appointed until a person is charged. In contrast, private defense counsel can have some effect, because they may be involved earlier. For example, they can contact the prosecutor about treatment the defendant has begun/completed, make agreements with the victim or victim’s family, or reach an agreement with the prosecutor before charging.

G. Criminal Procedure
1. **Charging Decision**

Ultimately, the prosecutor assigned to the case will make a decision on what charges to file, which is subject to approval by SAU’s lead deputy prosecutor. The case file is reviewed and the victim is interviewed to determine preferences, assess the ability to testify and determine what crime(s) are appropriate to charge. Generally, the prosecutor will only charge where he believes there is reasonable likelihood of proving beyond a reasonable doubt. Once charges are filed, the court will review for probable cause before signing a bail order. In addition, the defense can bring a motion to dismiss for lack of probable cause, but it is rare that a full probable cause hearing is requested.

In cases where the victim does not want to proceed, the prosecutor will likely decline charges, unless the case can be proven without the victim’s testimony and there is an additional factor, such as the safety of the community, that would justify charging. Victim intoxication, especially to the point where the victim does not recall the incident, can affect charging decisions, especially where there is little or no corroborating evidence.

If there is a decision not to charge, the prosecutor will draft a declination form that is sent to law enforcement. There are written guidelines and standards for filing cases as well as plea offers, and all deputy prosecutors are familiar with the standards.

2. **Preliminary Hearings**

The prosecutor initiates felony charges by filing an Information and Affidavit of Probable Cause, which are reviewed by a prosecutor before filing. There is no automatic preliminary hearing or Grand Jury hearing. A judge will review the Probable Cause Affidavit prior to signing an arrest warrant. The defendant may challenge probable cause, but there is not an evidentiary hearing in which witnesses are called and required to testify under oath. Other preliminary hearings include arraignment, probable cause/bail hearings, motion hearings, and trial call (to confirm readiness for trial). Motions typically challenge probable cause, ask for suppression of evidence and/or defendant statements, request medical/mental health/counseling records, and request to admit evidence involving the victim’s past sexual history.

3. **Pleas**

A prosecutor will typically make a written plea offer to the defense shortly after the case is charged. The defense has until the Omnibus hearing, when motion dates are set and a trial date is confirmed. Victims have the opportunity to provide input on plea negotiations.

4. **Alternative Disposition**

The Special Sex Offender Sentencing Alternative (SSOSA) was designed for situations where an offender was guilty of a sex offense, but it was better for the victim/family for the
offender to get a shorter jail sentence followed by strict conditions upon release, including sex offender treatment. If an offender sentenced to SSOSA violates some term, the defendant is sentenced to the prison term that would have been imposed had the defendant not initially received the SSOSA sentencing alternative instead of prison.

5. Trial

The prosecutor and victim advocate prepare the victim for trial by familiarizing the victim with the courtroom and the trial process. The victim will be permitted to review prior statements, and the prosecutor will go through the expected testimony, as well as prepare the victim for cross-examination. The victim advocate will ensure that the victim waits for trial in a location separate from the defense where possible and prepares the victim for what to wear, who should be with them, etc. There will be a discussion about whether the victim desires to be in the courtroom during the trial and the issues that may present.

A victim advocate (from the prosecutor’s office, community-based or both) will sit in the courtroom but not at counsel table. A detective will also sit at the prosecutor’s table. Both prosecutors and police believe this practice demonstrates to the jury the importance of the case. Prosecutors and police both believe that it is an excellent way to train detectives on the type of evidence that will be effective at trial and what type of evidence will withstand cross examination.

6. Sentencing

The judge is responsible for sentencing, except in capital cases. There are state sentencing guidelines that judges must follow, unless there are ‘exceptional circumstances’ to justify an upward or downward deviation. Sentencing guidelines are based on the seriousness of the offense and the defendant’s criminal history.

In most sex offense cases, a pre-sentencing investigation will be prepared by the Department of Corrections. By law, a victim may submit a victim impact statement or report to the court, with the assistance of the prosecutor if requested. It will usually be included in the pre-sentencing report. The victim is entitled by law to present a statement personally or through a representative, at the sentencing hearing for felony convictions. The victim advocate is always present at sentencing hearings on sexual assault cases.

7. Victim Rights and Enforcement

The Washington constitution and state code contain certain rights for victims of crime. While there is not an enforcement mechanism provided, both prosecutors and trial judges ensure that the rights of victims are protected. Before accepting a plea or sentencing in a case where the victim has a right to notification or presence, the judge will inquire as to whether the victim was notified and will not proceed until the rights have been complied with.
H. Best Practices

1. The parties interviewed praised the multi-disciplinary approach of Dawson Place was praised as the most practical and effective means of handling sex offense cases.

2. A rotational program for prosecutors may ameliorate typical challenges of prosecutor burn-out and a lack of attorneys skilled to prosecute sex offense cases.

3. The existence of an overall policy and institutional measures regarding charging and disposition standards, as well as the utilization of a lead prosecutor to review key decisions (charging decisions and plea offers) maximizes quality control.
Criminal Division

The Criminal Division is the largest division in the Snohomish County Prosecutor's Office and is organized into several different units:

**Important Phone numbers.**

**Felony** - The Felony Unit processes all adult felony referrals from county law enforcement agencies in both the incorporated and unincorporated areas. Case files are prepared from these referrals and routed to the appropriate felony unit: Non-Violent Crimes, Violent Crimes, Drugs, or Special Assault (for child abuse cases and adult sexual offenses). Cases are reviewed by a Deputy Prosecuting Attorney who determines whether: 1) additional law enforcement investigation is required, 2) the case should be referred to Pre-Prosecution Diversion, 3) the case should be declined as legally insufficient, or 4) felony charges should be filed. If charges are filed, the case proceeds through arraignment, trial (unless a plea agreement is reached first), and sentencing. Further case work may be required if an appeal is filed or the defendant commits a probation violation.

**Misdemeanor** - The Prosecutor's District Court Unit processes all misdemeanor and gross misdemeanor cases referred by the County Sheriff, the State Patrol, all state agencies, and some cities who have contracted with the county for misdemeanor prosecution services. These cases are processed through one of the four district court jurisdictions in Snohomish County: Cascade, Evergreen, Everett, and South.

**Juvenile** - The Juvenile Unit processes all law enforcement referrals, both felony and misdemeanor, within the incorporated and unincorporated areas of Snohomish County for offenders under 18 years of age.

**Pre-Prosecution Diversion** - This program provides an alternative to court trial and incarceration for a limited number of qualifying first-time offenders. These offenders are held accountable for their crimes through participation in self-paid evaluation and rehabilitation, payment of restitution to victims, payment of other fees and fines and successful completion of all terms and conditions of a diversion contract.

**Victim Witness** - This unit provides assistance and support to victims and witnesses of the most serious crimes during their involvement in the criminal justice process. Victim Witness also facilitates the establishment of restitution, property return, and other post-prosecution concerns.
Washington Coalition of Crime Victim Advocates
Strengthening crime victim rights and improving victim services

RCW 7.69.030

Revised Code of Washington - 7.69.030

Rights of victims, survivors, and witnesses.

There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any criminal court and/or juvenile court proceeding:

(1) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

(2) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

(3) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(4) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(5) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(6) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(8) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(9) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in RCW 49.76.020, shall be notified of their right to reasonable leave from employment under chapter 49.76 RCW;

(10) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

(11) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

(12) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor;
(13) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

(14) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions, and

(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment.

Link to these rights on the Washington State Legislature's website!
Washington State Constitution: Article I, Section 35

VICTIMS OF CRIMES – RIGHTS. Effective law enforcement depends on cooperation from victims of crime. To ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect, victims of crime are hereby granted the following basic and fundamental rights.

Upon notifying the prosecuting attorney, a victim of a crime charged as a felony shall have the right to be informed of and, subject to the discretion of the individual presiding over the trial or court proceedings, attend trial and all other court proceedings the defendant has the right to attend, and to make a statement at sentencing and at any proceeding where the defendant’s release is considered, subject to the same rules of procedure which govern the defendant’s rights. In the event the victim is deceased, incompetent, a minor, or otherwise unavailable, the prosecuting attorney may identify a representative to appear to exercise the victim’s rights. This provision shall not constitute a basis for error in favor of a defendant in a criminal proceeding nor a basis for providing a victim or the victim’s representative with court appointed counsel. [AMENDMENT 84, 1989 Senate Joint Resolution No. 8200, p 2909, Approved November 7, 1989.]
### Non-Governmental Victim Service Agencies

| Anchorage, Alaska | **State of Alaska Office of Victims’ Rights**  
The Office of Victim Rights (OVR) is an independent agency whose purpose is to help victims of crime obtain the rights they have under the Alaska constitution and statutes with regard to their contacts with criminal justice agencies in the state. OVR provides legal services to victims of all types of crime, including sexual assault cases. When the OVR accepts a case in which a criminal charge has been filed, the OVR will file a limited notice of appearance. In cases in which criminal charges have not been filed, the OVR assists when the victim wishes to address the court regarding bail or conditions of release such as no-contact orders. The OVR is required by law to ensure it does not interfere with any ongoing criminal investigation by a police agency or any criminal proceeding by the prosecutor’s office. |
| TurnAround, INC | **Standing Together against Rape (STAR)**  
STAR provides crisis intervention and support services to crime victims throughout the process, regardless of whether a police report has been or will be filed. In addition to a crisis hotline, STAR provides information about medical issues and explanations of the criminal justice system. STAR provides assistance with a wide range of legal issues including help with protective orders, referrals for help with civil and criminal issues, and referrals for help with family law issues. STAR provides accompaniment services for meetings with the prosecutor and court appearances if the case is charged.  

| Baltimore, Maryland | **TurnAround, INC**  
TurnAround, Inc. provides counseling and support services to victims of sexual assault and domestic violence in Baltimore County. TurnAround’s services include:  
- 24-hour crisis intervention and referral hotline.  
- Trauma Therapy: Individual and specialized group trauma therapy for adult, teenage and child victims of sexual assault and/or domestic violence as well as their families.  
- Victim Advocacy: Provides immediate and ongoing support and information to victims of sexual assault and/or domestic violence. Trained victim advocates offer support, information and crisis counseling at area hospitals to victims of sexual assault and domestic violence. The Baltimore Police Department will call Turnaround to request victim advocacy support when they are called to the scene of an investigation. |
- Community Education and Training: Provides educational programs and professional training on issues of child abuse, sexual assault, sexual harassment, dating violence, domestic abuse, and sex trafficking.
- Abuser Intervention Program: A primarily court-ordered program for domestic violence offenders that follows a national model.
- Anti-Sex Trafficking Program: Addresses the specific needs of domestic sex trafficking victims.
- Information and Referral: Provides assistance with connecting to community resources.
- Emergency Shelter and transitional housing: Temporary emergency shelter providing a safe environment, food, transportation and clothing, and housing and support services for victims and their families for up to two years.
- Legal Program: Legal consultation on family law matters and representatives for protective order hearings, and court-accompaniment where the victim desires it.

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<tr>
<th>Maryland Crime Victims’ Resource Center (MCVRC)</th>
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<tr>
<td>MCVRC provides free legal, advocacy, and counseling services to victims of all types of crime. Services include:</td>
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<td>➢ Assistance receiving all applicable victim rights.</td>
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<td>➢ Court accompaniment.</td>
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<td>➢ Registration for VINE (electronic Victim Information and Notification Everyday) services.</td>
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<td>➢ Referrals to community and faith based organizations.</td>
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<td>➢ Assistance applying for Crime Victim’s Compensation.</td>
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<td>➢ Support Groups.</td>
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<td>➢ Sessions to prepare adults, youth and children with courtroom legal procedures and expectations.</td>
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<td>➢ Family and individual counseling.</td>
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<td>➢ Peer grief support groups.</td>
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<td>➢ Asserting victims’ rights throughout criminal proceedings and appeals when victim denied rights.</td>
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<td>➢ Requesting and collecting restitution from the offender.</td>
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<td>➢ Training and technical assistance for victim service providers, volunteers, and attorneys.</td>
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<td>➢ Pro bono legal referrals for other civil matters.</td>
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<td>➢ Working with student law clinics to provide additional services to victims.</td>
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<tr>
<td>Grand Rapids, Michigan</td>
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<th>Western Michigan Legal Services</th>
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<td>Western Michigan Legal Services provides free legal services in non-criminal cases to low income and elderly residents of 17 counties in Michigan. These services include help obtaining government benefits, consumer problems, and housing/landlord tenant issues, and family law cases where domestic violence is involved. While the agency specifically does not participate in criminal cases, it could provide legal services to victims of crimes in the same manner that victims receive legal assistance services from the military or victim counsel in other jurisdictions.</td>
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<th>New York, New York</th>
<th>Center for Court Innovation (CCI)</th>
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<td>CCI helps jurisdictions plan and operate domestic violence courts both in the United States and around the world. In the U.S., CCI offers free technical assistance, supported by the U.S. Department of Justice’s Office on Violence Against Women, to jurisdictions across the country interested in creating or expanding existing...</td>
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domestic violence court projects. For example, CCI has helped jurisdictions with victim safety issues, domestic violence case identification and calendaring, and the use of program mandates. CCI also helped establish New York’s first domestic violence court, the Brooklyn Domestic Violence Court, which has served as a model for dozens of courts in New York State. CCI has also helped New York State disseminate the integrated domestic violence court model, in which a single judge handles criminal domestic violence cases and related family issues, such as custody, visitation, civil protection orders, and matrimonial actions.

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<th>Multnomah and Yamhill Counties, Oregon</th>
<th>National Crime Victims Law Institute</th>
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<tr>
<td>NCVLI is a national nonprofit legal education and advocacy organization whose mission is to actively promote balance and fairness in the justice system through crime victim centered legal advocacy, education, and resource sharing.</td>
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NCVLI does not provide any legal services directly to victims. When a victim contacts NCVLI, they work to pair that victim with support services in his or her area, and to find a lawyer in their pool of pro bono attorneys who is willing to provide free legal services. NCVLI then partners with those volunteer lawyers to ensure top quality advocacy on behalf of the victim.

NCVLI provides training and technical assistance (research, writing, and strategic case advice) to attorneys and advocates so that every attorney and advocate, even those in solo practice, can represent victims with the power and resources of a national entity behind them.

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<th>Oregon Sexual Assault Task Force</th>
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<td>The Sexual Assault Task Force seeks to facilitate cross-discipline collaboration and cultivate victim-centered approaches to sexual assault primary prevention, victim advocacy, medical forensic care, criminal prosecution and sex offender management and treatment. The Task Force Advisory Committee (TFAC) brings together over 100 members from across Oregon, all of whom are working in their various capacities to end sexual violence.</td>
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| Athens-Clarke County, Georgia | The Cottage | The Cottage provides intervention, advocacy, referrals, and support for victims of sexual assault. Services include:  
- 24-hour crisis and information hotline.  
- Crisis counseling.  
- Medical advocacy.  
- Legal advocacy.  
- Other resources.  
Involvement by an advocate from The Cottage can begin at the time of report. For example, when a victim seeks treatment at a hospital, the hospital will report the incident to law enforcement and will call an advocate from The Cottage. Victims may also visit The Cottage prior to any law enforcement involvement. A victim advocate will meet with the victim to discuss immediate needs via crisis counseling and victim options. |
| Arlington, Virginia | International Association of Chiefs of Police (IACP), Alexandria, VA | The IACP advances professional police services; promotes enhanced administrative, technical, and operational police practices; and fosters... |
cooperation and the exchange of information and experience among police leaders and police organizations of recognized professional and technical standing throughout the world. IACP champions the recruitment and training of qualified persons in the police profession and encourages all police personnel worldwide to achieve and maintain the highest standards of ethics, integrity, community interaction and professional conduct.

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<th>Location</th>
<th>Organization</th>
<th>Description</th>
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<td>Washington, DC</td>
<td>DC Crime Victims Resource Center (DCCVRC), DC</td>
<td>The mission of the DCCVRC is to provide effective pro bono legal representation and support for the assertion and enforcement of victims’ rights in Washington, DC. The DCCVRC is the only organization in DC that represents victims of all types of crime regarding their rights in criminal cases. DCCVRC will represent victims of crime throughout the criminal justice process, including pretrial, trial, appellate matters, and post-sentencing matters including parole.</td>
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<td>Philadelphia, PA</td>
<td>Women’s Law Project (WLP), PA</td>
<td>The WLP has brought and won lawsuits challenging gender discrimination. It has worked to eliminate gender discrimination in laws and institutions, to promote changes in the legal system that will improve the status and opportunities of women and their families, to improve the responses of public agencies to women’s needs, to educate the public about the status of women’s rights, and to empower women by providing information which enables them to address problems in their lives. The WLP has challenged sex discrimination in employment, education, athletics, and insurance; advanced the rights of lesbian and gay parents; advocated on behalf of impoverished women; worked for fair and accessible procedures in child custody, child support, and protection from abuse actions; and championed the rights of sexual assault survivors.</td>
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<td>Women Organized Against Rape (WOAR), PA</td>
<td>Women Organized Against Rape is a non-profit organization whose mission is to eliminate all forms of sexual violence through specialized treatment services, comprehensive prevention education programs, and advocacy for the rights of victims of sexual assault. WOAR provides free counseling for women, men and children who have experienced sexual violence.</td>
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sexual violence. Services include a 24-hour hotline, medical accompaniment, adult drop-in groups, counseling and support, accompaniment to court hearings, and support during the court process.

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<th>Women Against Abuse, Philadelphia, PA</th>
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<td>Women Against Abuse's 100-bed safe haven is the only emergency shelter in Philadelphia dedicated to the needs of abused women and their children.</td>
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<td>The Sojourner House is a long-term housing program for families made homeless by domestic violence. The Women Against Abuse Legal Center provides attorney representation and court advocacy to victims seeking protection from abuse orders and child custody.</td>
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<th>Austin, Texas</th>
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<tr>
<td><strong>Texas Association Against Sexual Assault (TAASA)</strong></td>
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<tr>
<td>TAASA is a statewide coalition that oversees 84 rape crisis centers, assists with public policy, and conducts awareness campaigns. TAASA’s functions include:</td>
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<td>- <strong>Primary Prevention:</strong> The primary prevention program at TAASA strives to help rape crisis centers and other community partners around Texas find ways to prevent sexual violence from happening in their communities.</td>
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<tr>
<td>- <strong>Interpersonal Violence Prevention Collaborative (IVPC):</strong> The IVPC is a network of individuals and organizations (including TAASA) that work together to prevent sexual violence, domestic violence, and stalking.</td>
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<td>- <strong>Public Awareness Campaign:</strong> “Speak Up. Speak Out.” is TAASA’s award-winning public awareness campaign that features actual sexual assault survivors telling their stories in their own words.</td>
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<tr>
<td>- <strong>Public Policy:</strong> TAASA advocates for state legislation that is beneficial to sexual assault survivors and service providers, both through direct action and education.</td>
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<tr>
<td>- <strong>Training:</strong> TAASA staff train a variety of audiences all across the state on issues relating to sexual violence.</td>
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<th>Safe Place</th>
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<tr>
<td>Safe Place provides 24 hour hotline services as well as follow-on services for victims of sexual and domestic violence crimes. These services include:</td>
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<tr>
<td>- Hospital Advocacy: support for survivors of rape and their loved ones during forensic and physical medical examinations</td>
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<tr>
<td>- Emergency shelter for domestic violence victims.</td>
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</table>
- Legal Advocacy & Accompaniment: supports survivors at court, particularly with obtaining protective orders and referrals to legal assistance.
- Counseling: individual and family counseling for survivors of rape, sexual abuse or domestic violence.
- Supportive Housing: housing with case management for families and women leaving shelter.
- Safe Place also supports education and counseling programs for adults and youths to prevent sexual assault, domestic violence, etc. The program also sponsors prevention services and programs in the local community.

**Texas Legal Services Center (TLSC)**

TLSC is a non-profit legal office which provides assistance and training to poverty law advocates and their clients in the areas of litigation support, education and communication. TLSC sponsors projects that assist individuals in Texas and, in some cases, nationwide. TLSC manages Texas Law Help and Texas Lawyers Help which are statewide web initiatives to increase access to justice.

TLSC generally does not provide lawyers to represent people in court cases. TLSC operates a legal hotline program that gives self-help legal advice to Texas residents who are over age 60 or who receive Medicare. TLSC also has programs that assist low income individuals who have problems accessing health care, low income victims of violent crimes, persons who have suffered abuse or neglect in residential care facilities such as nursing homes, victims of identity theft, and persons who have problems with pensions.

**Snohomish County, Washington**

**Sexual Violence Law Center (SVLC), Seattle, WA**

The SVLC is committed to improving the lives of survivors of sexual violence through civil legal representation for survivors, trainings for advocates and attorneys, and providing resources and information to these two communities.

**Maricopa County, Arizona**

**Arizona Voice for Crime Victims (AVCV), Scottsdale, AZ**

AVCV, in collaboration with Arizona State University College of Law, provides pro bono legal representation by law students and volunteer
attorneys to crime victims during all proceedings. The project renders legal advice and provides legal assistance to victims in asserting their constitutional rights. Representation may include: filing motions; arranging meetings with prosecutors regarding charging decisions, presenting evidence at release hearings, providing legal assistance regarding appropriate plea bargaining; assisting in presenting evidence at sentencing and victim impact statements; restitution claims; and victim's compensation claims.

<table>
<thead>
<tr>
<th>San Diego, California</th>
<th>Center for Community Solutions (CCS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCS operates the only rape crisis center in the city of San Diego along with a countywide 24-hour bilingual crisis helpline. CCS also provides emergency domestic violence shelters, hospital and court accompaniment, as well as legal and counseling services for those affected by rape, domestic violence, and elder abuse. CCS also works with local community groups and schools to provide innovative prevention programs to promote healthy relationships and peaceful communities.</td>
<td></td>
</tr>
</tbody>
</table>
Website links for sexual assault studies and comparisons:

AEQuitas Prosecutor resources:

- Library - http://www.aequitasresource.org/library.cfm
- 2012 study of law comparison:
  http://www.aequitasresource.org/Rape_and_Sexual_Assault_Analyses_and_Laws_10.5.12.pdf
- 2012 study narrative and other links to documents:
  http://sites.nationalacademies.org/dbasse/cnstat/currentprojects/dbasse_073316#.UKyuMI4QiR

Military info:

- http://www.answers.com/topic/rape-by-military-personnel#ixzz2JTvxLvan
- Lackland AFB
  - EXSUM
  - Report
- Military Academies
- FY11 Reports
- FY12 Reports

Campus Sexual Assault study 2007:

- http://www.nyu.edu/shc/promotion/svstat.html

RAND Compilation of Studies of OSD in 2007:

- Summary:
- RAND Study 2007:
South Carolina Medical University:

- http://www.musc.edu/vawprevention/research/sa.shtml

CDC:

- The National Intimate Partner and Sexual Violence Survey (NISVS):
  http://www.cdc.gov/violenceprevention/nisvs/index.html
- Additional Materials on Sexual Violence:
  http://www.cdc.gov/ViolencePrevention/sexualviolence/index.html

National Sexual Violence Resource Center:

- Website link http://www.nsvrc.org/
- Anonymous reporting & other topics with PA example
- Media packet for citing SA reports
- Police and Prosecution of Sexual Assault in LA County with interviews and questions
### STATE AND FEDERAL VICTIM RIGHTS COMPLIANCE EFFORTS

<table>
<thead>
<tr>
<th>State</th>
<th>NAME/AGENCY</th>
<th>Date started</th>
<th>DESCRIPTION</th>
<th>Contact Info</th>
</tr>
</thead>
</table>
| Alaska    | Office of Victim Rights Agency of the legislature     | 2001         | The office investigates complaints of violations of victim rights, and assists victims in obtaining these rights. It also provides free legal services to victims, such as appointing an attorney to represent them at sentencing and speak for them, if the victim wants such representation. | Taylor Winston, Director  
State of Alaska Office of Victims' Rights  
1007 West 3rd Ave., Suite 205  
Anchorage, Alaska 99501-2820  
907-272-2820  
888-274-2820 (AK toll free)  
officeofvictimsrights@legis.state.ak.us  
www.ovr.legis.state.ak.us |
| Arizona   | Victim Rights Enforcement Officer Attorney General's Office |              | The victim rights enforcement officer functions like an ombudsman by conducting investigations and auditing/evaluating the operations of government providers of mandated victim services.                                                                 | Colette Chapman, Victims Rights' Enforcement Officer  
1275 West Washington St.  
Phoenix, AZ 85007  
602-542-4911  
602-542-8409  
victimrights@azag.gov  
http://www.azag.gov/victims_rights/enforcement.html |
| Colorado  | Victim Rights Act Compliance Program  
Vicenst's Compensation and Assistance Coordinating Committee  
Division of Criminal Justice  
Colorado Department of Public Safety | 1993         | A seven-member subcommittee of the board initially reviews complaints of violations of the Victim Rights Act. The board also reviews grant requests for VOCA and VAWA funding. The Attorney General can become involved with a VRA complaint if an agency in violation has not complied with the recommendations set forth by the VRA Subcommittee. | Kelly Kassell  
Victim Rights Act Specialist  
303-299-4457  
700 Kipling Street, Suite 1000  
Denver, Co 80215-5865  
303-299-4497  
888-299-1880  
kelly.kassell@cdps.state.co.us  
http://daj.state.co.us/ovp/VRA.html |
| Connecticut | The Office of the Victim Advocate  
Independent State Agency | 1999         | The OVA is an independent state agency whose mandates include receive and investigate complaints from crime victims or others on behalf of the crime victim, to determine whether the victim's rights have been violated; enter an appearance in any court for the purpose of protecting the rights of crime victims, participate in public education and outreach to enhance the community's knowledge base regarding crime victims' rights in CT; recommend policy and legislative initiatives to advance the rights of crime victim; remove barriers to justice; and monitor the delivery of services to the crime victim population, including interactions with crime victims and the State Witness Protection Program and the Office of Chief Medical Examiner. | Garvin G. Ambrose  
505 Hudson St. 5th Floor  
Hartford, CT 06106  
860-550-8832  
860-771-3128  
ova.info@ct.gov  
## STATE AND FEDERAL VICTIM RIGHTS COMPLIANCE EFFORTS

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<th>Contact info</th>
</tr>
</thead>
</table>
| Maryland   | Victim Rights Compliance Initiative              |              | The compliance coordinator investigates complaints against state or local criminal justice agencies, and reports findings, conclusions and recommendations to parties involved. The compliance coordinator can conduct audits/evaluations of criminal justice agencies to determine level of compliance and make recommendations for change. | Shirley Haas  
Victrm Rights Compliance Coordinator  
Governor's Office of Crime Control & Prevention  
300 E Joppa Road, Suite 1105  
Baltimore, Md. 21286  
410-821-2803  
877-827-4632  
shaas@goocp.state.md.org  
myrights@victimvoice.us  
| Minnesota  | Crime Victim Justice Unit                        | 1986         | The CVJU investigates complaints from victims about statutory rights violations and victim mistreatment. The office develops informational materials for both crime victims and criminal justice professionals, and initiates and assists in legislative proposals related to crime victims. Although Minnesota’s compliance effort no longer carries the title of ombudsman, it operates under the same principles. The CVJU provides both informal assistance to crime victims and conducts formal investigations, the result of which includes determinations on each complaint accompanied by recommendations to alleviate the harm done to the victim and improve procedures to prevent similar problems in the future. | Suzanne Elwell, Director  
Office of Justice Programs  
Department of Public Safety  
45 Minnesota St. Suite 2300  
St. Paul, MN 55101  
651-201-7312  
651-201-7300 ext 4  
suzanne.elwell@state.mn.us  
http://www.ojp.state.mn.us/ois/CVJU/about.htm |
| New Mexico | New Mexico Victims’ Rights Project               |              | The New Mexico Victims’ Rights Project provides education and enforcement of victims’ constitutional rights. The Project is a joint effort of the DWI Resource Center and other victim assistance organizations, and is available to assist all victims of crime. The goal of the Victims’ Rights Project is to help victims meet their legal, financial and emotional needs through; pro bono legal counsel; assistance in information and case tracking; representation at court hearings; assistance in creating victim impact statements and filing for restitution; and facilitating contact with support groups and other victim resources. | Linda Atkinson  
PO Box 30514  
Albuquerque, NM 87190  
888-410-1084  
505-292-2038  
info@nmm-victimsrights.org  
http://www.nm-victimsrights.org/home.html |
## STATE AND FEDERAL VICTIM RIGHTS COMPLIANCE EFFORTS

<table>
<thead>
<tr>
<th>State</th>
<th>NAME/AGENCY</th>
<th>Date Launched</th>
<th>DESCRIPTION</th>
<th>Contact Info</th>
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</thead>
</table>
| Oregon        | Crime Victims' Rights Section                    | 2006          | The Crime Victims' Rights Program works with the Attorney General's Task Force on Victims' Rights Enforcement to develop and update materials that support compliance with the law, train system practitioners, service providers and the public about crime victims' rights law, and increase awareness about crime victims' rights. Statutory changes in 2009 now allow victims to file formal motions with the court when victims' rights have been violated. An informal complaint process for victims' rights violations is available through the Oregon Department of Justice. Topic focused workgroups and committees address specific gaps in system awareness and compliance. In 2010 legislative action extended crime victims' rights to post-conviction, appeals, and federal habeas cases. | Shirley A. Didier  
Coordinating Attorney General's Task Force  
Crime Victims' Rights Program  
Oregon Department of Justice  
1162 Court St. NE  
Salem, OR 97301  
503-378-5348  
900-503-7663  
shirley.a.didier@doj.state.or.us  
http://www.oregoncrimevictimsrights.org/ |
| Pennsylvania  | The Pennsylvania Commission on Crime and Delinquency  
Office of Victims' Services (OVS) |                | Offers email address to voice concerns when victims feel their rights have been violated. The OVS works with many partners in the juvenile and criminal justice systems, to ensure that victims of crime get the help they need to move forward.                                                                 | Mark Zimmer  
Chairman  
P.O. Box 1167  
Harrisburg, PA 17108-1167  
717-705-0888  
800-692-7292  
RA-VictimsRights@state.pa.us  
re-pccdwebmaster@state.pa.us  
http://www.pccd.state.pa.us/pcod |
| South Carolina| Crime Victims' Ombudsman  
Office of the Governor | 1996          | Provides referrals, acts as a liaison between victims and justice system elements, and reviews complaints in an attempt to resolve any conflicts.                                                                 | Debbie DePaia Curtis  
Crime Victims' Ombudsman  
Office of the Governor  
1200 Pendleton Street  
Columbia, SC 29201  
Telephone: 803-734-0357  
803-734-0357  
888-236-0697 (Victim's only, please)  
Fax: 803-734-1428  
cvo@oepc.sc.gov  
http://www.oepc.sc.gov/cvo/ |

*Updated April 2013*
<table>
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<tr>
<th>State</th>
<th>NAME/AGENCY</th>
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<th>Contact Info.</th>
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</thead>
<tbody>
<tr>
<td>Utah</td>
<td>Victims Rights Committee</td>
<td>A committee for each judicial district that meets semi-annually to review victim complaints. This committee is appointed for each judicial district</td>
<td>Christine Walter Coordinator</td>
</tr>
<tr>
<td></td>
<td>Utah Council on Victims of Crime</td>
<td></td>
<td>Victim Assistance Coordinator</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>350 East 500 south, Ste. 200</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Salt Lake City, Utah 84111</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>801-223-2669</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td><a href="mailto:cwalters@utah.gov">cwalters@utah.gov</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><a href="http://www.crimevictim.utah.gov/UCVC/about_UCVC.html">http://www.crimevictim.utah.gov/UCVC/about_UCVC.html</a></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Victim Resource Center Department of Justice</td>
<td>The Victim Resource Center (VRC) assists victims of crime by providing information and referrals and an informal complaint process to help victims assert their rights. Mediators act as a liaison with criminal justice professionals to advocate for victims who are having difficulty exercising their rights. All victims who want to file a formal complaint with the Wisconsin Crime Victims Rights Board must first participate in the informal complaint process through the VRC. The vast majority of rights complaints in Wisconsin are resolved through this process.</td>
<td>Chris Nolan Director of Victim Services Wisconsin Department of Justice 17 W. Main Street Madison, WI 53707-7951 608-267-5251 800-446-6564 <a href="mailto:nolancm@doj.state.wi.us">nolancm@doj.state.wi.us</a> <a href="http://www.doj.state.wi.us/cvr/">http://www.doj.state.wi.us/cvr/</a></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Crime Victim Rights Board Department of Justice</td>
<td></td>
<td>Julie Broman Wisconsin Department of Justice 810 North 6th Street, Sto. 180 Milwaukee, WI 53203 414-227-1855 800-446-6564 <a href="mailto:brauman@doj.state.wi.us">brauman@doj.state.wi.us</a> <a href="http://www.doj.state.wi.us/cvr/CVRB.asp">http://www.doj.state.wi.us/cvr/CVRB.asp</a></td>
</tr>
<tr>
<td>U.S.</td>
<td>Office of the Victims’ Rights Ombudsman Executive Office for the U.S. Attorney’s Office</td>
<td>A crime victim may file a complaint against any employee of the Department of Justice who violated or failed to provide the rights established under the Crime Victims’ Rights Act of 2004, 18 U.S.C. § 3771. The Department of Justice has established the Office of the Victims’ Rights Ombudsman to receive and investigate complaints filed by crime victims against its employees, and has implemented Procedures to Promote Compliance with Crime Victims’ Rights Obligations, 28 C.F.R. § 45.10</td>
<td>Marie A. O’Rourke Victims’ Rights Ombudsman Executive Office for United States Attorneys Department of Justice RFK Main Justice Building 950 Pennsylvania Ave., N.W. Room 2261 Washington, DC 20530-0001 202-522-1010 877-574-9302 (toll free) Fax: 202-522-1011</td>
</tr>
</tbody>
</table>
### OTHER RELATED PROGRAMS

<table>
<thead>
<tr>
<th>State</th>
<th>NAME/AGENCY</th>
<th>Date started</th>
<th>DESCRIPTION</th>
<th>Contact info.</th>
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</thead>
<tbody>
<tr>
<td>Iowa</td>
<td>Office of Citizens' Aide/Ombudsman</td>
<td></td>
<td>The Office of Citizens' Aide/Ombudsman serves as an independent and impartial agency to which citizens can air their grievances about government. The Ombudsman has authority to investigate complaints about Iowa state and local government, with certain exceptions. The Ombudsman attempts to resolve most problems informally. Following an investigation, the Ombudsman may make findings and recommendations and publish a report.</td>
<td>Ruth H. Cooperrider, Ombudsman Cie Bubbock Miller Building 1112 East Grand Des Moines, IA 50319 515-291-5992 855-425-6263 <a href="mailto:ombudsman@legis.state.ia.us">ombudsman@legis.state.ia.us</a> (not on distribution list) <a href="http://www.legis.state.ia.us/Ombudsman/complaints">http://www.legis.state.ia.us/Ombudsman/complaints</a></td>
</tr>
<tr>
<td>Canada</td>
<td>Office of the Federal Ombudsman for Victims of Crime</td>
<td>2007</td>
<td>The Office of the Federal Ombudsman for Victims of Crime is a new, independent resource for victims in Canada. The Office was created in 2007 to ensure the federal government meets its responsibilities to victims of crime.</td>
<td>Sue O'Sullivan Office of the Federal Ombudsman for Victims of Crime P.O. Box 55037 Ottawa, Ontario K1P 1A1 613-461-8429 <a href="mailto:victimsfirst@ombudsman.gc.ca">victimsfirst@ombudsman.gc.ca</a> <a href="http://www.victimsfirst.gc.ca">www.victimsfirst.gc.ca</a></td>
</tr>
</tbody>
</table>
**ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT**

This chart is a summary of the laws on alcohol and drug facilitated rape and sexual assault (AFSA/DFSA) in the United States, U.S. Territories, U.S. Military, and federal jurisdictions. The majority of states include laws prohibiting sexual intercourse or contact when the victim is voluntarily or involuntarily intoxicated. This chart also includes provisions for a physically helpless or incapacitated victim, and lists those states that prohibit sexual activity when the perpetrator knows or should have known that the victim was incapable of consenting as defined by the statute.

<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)</th>
<th>SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)</th>
<th>PHYSICALLY HELPLESS/ INCAPACITATED</th>
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</thead>
<tbody>
<tr>
<td>Alaska</td>
<td></td>
<td></td>
<td></td>
<td>Al. Stat. § 11.41.420; Alaska Stat. § 11.41.425</td>
</tr>
</tbody>
</table>

73 A minority of jurisdictions specifically address a victim's capacity to consent when the victim is voluntarily intoxicated, but those that do include Arizona, California, Idaho, Kansas, Louisiana, Montana, South Carolina, Washington, Wisconsin, and the Virgin Islands.

74 For additional information on prosecuting cases involving voluntarily or involuntarily intoxicated persons, see Teresa Scalzo, *Prosecuting Alcohol-Facilitated Sexual Assault, Nat'l District Attorney's Ass'n (2007), available at* http://www.vaw.umn.edu/documents/prosecutingalcohollsa/prosecutingalcohollsa.pdf (last visited May 1, 2012).

75 Note that there are limitations to the use of the physically helpless or incapacitated statutes. Contact AEQuitas for additional resources and consultation.

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<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</th>
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</thead>
<tbody>
<tr>
<td>Georgia76</td>
<td>No statutes on alcohol/drug facilitated sexual assault.</td>
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</table>

76 Georgia does not address alcohol and/or drug facilitated sexual assault directly in its rape and sexual assault statutes; however, there is long-standing case law holding that “sexual intercourse with a woman whose will is temporarily lost from intoxication, or unconsciousness arising from using drugs or other cause, or sleep, is rape.” Paul v. State, 144 Ga.App. 106, 240 S.E.2d 600, 602 (1977)(affirming conviction for rape committed by defendant while victim was drunk).
<table>
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<tr>
<th>STATE</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)</th>
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<th>PHYSICALLY HELPLESS/INCAPACITATED</th>
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<tbody>
<tr>
<td>Iowa</td>
<td>Iowa Code Ann. § 709.1(2); Iowa Code Ann. § 709.1A; Iowa Code Ann. § 709.4</td>
<td>Iowa Code Ann. § 709.4(4)</td>
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</tbody>
</table>

77 People v. Fisher, 281 Ill. App. 3d 395, 403-03, 667 N.E.2d 142, 146-47 (2d Dist. 1996) (holding that 15 year old girl, who had imbibed alcohol of her own volition, and subsequently passed out, was incapable of giving consent. The court declined to speculate if a less obvious impairment would render someone incapable of consent. Intoxication, involuntary or voluntary, is covered by “ability to give knowing consent” in such circumstances).

78 Gale v. State, 882 N.E. 2d 808 (Ind. Ct. App. 2008) (holding intoxication, voluntary or otherwise, could rise to the level of being “unaware that [sexual] conduct is occurring” as necessitated by Indiana sex crime statutes.

79 Me. Rev. Stat. Ann. tit. 17-A §253(3) specifically provides that the victim’s voluntary intoxication is a defense to gross sexual assault.
<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)</th>
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<th>PHYSICALLY HELPLESS/INCAPACITATED</th>
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<tbody>
<tr>
<td>Mississippi</td>
<td>Miss. Code Ann. §97-3-96(4)(a); Miss. Code Ann. §97-3-97(c); Miss. Code Ann. §97-3-95(b)</td>
<td>Miss. Code Ann. §97-3-97(d)</td>
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<tr>
<td>STATE</td>
<td>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</td>
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</tr>
<tr>
<td>New York</td>
<td>N.Y. Penal Law §130.00(6); N.Y. Penal Law §130.05(3); N.Y. Penal Law §130.20; N.Y. Penal Law §130.30; N.Y. Penal Law §130.45; N.Y. Penal Law §130.60; N.Y. Penal Law §130.65-a; N.Y. Penal Law §130.66; N.Y. Penal Law §130.90</td>
<td></td>
<td>N.Y. Penal Law §130.00(7); N.Y. Penal Law §130.05(3); N.Y. Penal Law §130.25; N.Y. Penal Law §130.35; N.Y. Penal Law §130.40; N.Y. Penal Law §130.50; N.Y. Penal Law §130.60; N.Y. Penal Law §130.65; N.Y. Penal Law §130.66; N.Y. Penal Law §130.67; N.Y. Penal Law §130.70</td>
<td></td>
</tr>
</tbody>
</table>

80 State v. Sanders, 269 Neb. 895, 697 N.W.2d 657 (2005) (holding that intoxication could render a person mentally or physically incapable of resisting, as defined in Neb. Rev. Stat. § 28-319; Rea v. Slominski, 250 Neb. 711, 551 N.W.2d 528 (1996) (holding that lack of consent is not an element when the victim is incapable of resisting (i.e. intoxication/sleeping) or appraising nature of the conduct).

81 Consent is not a defense when given by someone who, by reason of ... intoxication or use of drugs ... is unable to exercise reasonable judgment. N.H. Rev. Stat. Ann. § 626:6(III).

82 State v. Sosa, 147 N.M. 351 (2009)(supporting the contention that intoxication can rise to this level).

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Appendix T - JSC-SAS - Alcohol/Drug Facilitated Sexual Assault Chart
<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</th>
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<th>PHYSICALLY HELPLESS/ INCAPACITATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Dakota</td>
<td>N.D. Cent. Code § 12.1-20-03(1)(b); N.D. Cent. Code §12.1-20-07(1)(c)</td>
<td>N.D. Cent. Code § 12.1-20-03(1)(c)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>S.C. Code Ann. §16-3-651(f); S.C. Code Ann. §16-3-654</td>
<td></td>
<td></td>
<td>S.C. Code Ann. §16-3-651(g); S.C. Code Ann. §16-3-652(1)(c); S.C. Code Ann. §16-3-654(1)(b)</td>
</tr>
<tr>
<td>STATE</td>
<td>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</td>
<td>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)</td>
<td>SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)</td>
<td>PHYSICALLY HELPLESS/ INCAPACITATED</td>
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</tr>
<tr>
<td>South Dakota</td>
<td>S.D. Codified Laws §22-22-1(4)</td>
<td></td>
<td>S.D. Codified Laws §22-22-1(3); S.D. Codified Laws § 22-22-7.2</td>
<td></td>
</tr>
</tbody>
</table>

83 Holding that the "term 'mental incapacity' may extend to a transitory circumstance such as intoxication if the nature an degree of the intoxication has gone beyond the stage of merely reduced inhibition and has reached a point where the victim does not understand 'the nature or consequences of the sexual act.'" Molina v. Commonwealth, 636 S.E.2d 470, 474.
<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (COVERS VOLUNTARY INTOXICATION)</th>
<th>STATUTES WITH SPECIFIC INTOXICATION PROVISIONS (EXCLUDES VOLUNTARY INTOXICATION)</th>
<th>SUBSTANTIALLY IMPAIRED (NO INTOXICATION REQUIREMENT)</th>
<th>PHYSICALLY HELPLESS/INCAPACITATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Samoa</td>
<td>No statutes on alcohol/drug facilitated sexual assault.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northern Mariana Islands</td>
<td>4.1 CMC § 404(c)</td>
<td></td>
<td>4.1 CMC § 404(d)</td>
<td></td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>33 Laws of Puerto Rico Ann. §4061(c); 33 Laws of Puerto Rico Ann. §4065; 33 Laws of Puerto Rico Ann. §4770(d)</td>
<td>33 Laws of Puerto Rico Ann. §4061(d)</td>
<td>33 Laws of Puerto Rico Ann. §4770(e)</td>
<td></td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>14 Virgin Islands Code §1701(4); 14 Virgin Islands Code §1708(5)</td>
<td></td>
<td>14 Virgin Islands Code §1701(1), (5); 14 Virgin Islands Code §1708(6)</td>
<td></td>
</tr>
<tr>
<td>Military</td>
<td>UCMJ § 920 Art. 120(a)(5); (e)</td>
<td>UCMJ § 920 Art. 120(c)(2); (e)</td>
<td>UCMJ § 920 Art. 120(a)(5); (c)(2); (e)</td>
<td></td>
</tr>
</tbody>
</table>

²⁴ A person who is unconscious or for any other reason is unable to community unwillingness to act is presumed incapable of consent.
Appendix U

U1. Summary of Research Methods for the “Making a Difference Project” ............ 2
U2. MAD Data Findings Powerpoint ................................................................. 10
Summary of Research Methods for the “Making a Difference” (MAD) Project

Kimberly A. Lonsway, PhD
May 2012
Research Methods

The data to be analyzed have been collected as part of the "Making a Difference" (MAD) project, which was initiated in October of 2003 with a grant from the William H. Donner Foundation. The vision for the MAD project was originally that multi-disciplinary teams from eight U.S. communities would become partners in a joint effort to work together collaboratively and set new national standards for effectively prosecuting sexual assault. In order to solicit community partners, a call for applications went out in January of 2003 to thousands of professionals in a range of disciplines across the country. Specifically, information on the project opportunity was disseminated electronically by a number of organizations (e.g., Sexual Assault Training & Investigations, National Sexual Violence Resource Center, RAINN, and CAVNET) and also distributed with personal letters that were sent to communities who had previously received training from Sexual Assault Training & Investigation (SATI), Inc.

In response to these dissemination efforts, a total of 88 multidisciplinary applications were submitted to EVAWI from community teams with representatives from each of the core disciplines involved in sexual assault response: law enforcement, forensic medicine, prosecution, and victim advocacy. These applications were then evaluated by an independent national selection committee consisting of professionals from these disciplines, as well as a survivor/activist, and a researcher in the field of sexual assault response. Applications were scored on a range of specific criteria, evaluating: the structure and function of collaborative efforts within the community; the specific agencies involved; the length of time services have been available; the level of collaboration seen among multidisciplinary professionals; the availability of baseline statistics on sexual assault characteristics and case processing/outcomes; the degree of need for technical support and assistance in furthering collaborative work; and special considerations or circumstances (e.g., unique innovations, affiliation with institute of higher education). For more detailed information on the selection process and criteria, and a copy of the scoring sheet used to evaluate applicants, please see the MAD section of the EVAWI website.

As a result of this competitive application process, the following eight U.S. communities were selected as participants in the MAD Project:

Austin, TX  Bozeman, MT  Columbia, SC  Grand Rapids, MI
Jacksonville, FL  San Diego, CA  Kansas City, MO  Washington, DC

In the first year of the project, the eight community teams joined together in October of 2003 for a 3-day training conference in San Diego, California. This training conference was designed to provide an initial forum for community teams to share strategies, highlight their challenges and successes, and coordinate their activities. Training objectives also included promoting better collaborative working relationships between professions and fostering better understanding of the roles and responsibilities of all professionals in the field of sexual assault. After participants returned to their communities, they received
various forms of technical assistance during the second and third years of the project. This included the opportunity to host their own training conferences. These various forms of technical assistance were funded by the William H. Donner Foundation.

**Data collection efforts.** In return for the technical assistance that they received as part of the MAD project, participating professionals were required to collect very detailed data on the characteristics of their agency’s sexual assault caseload. Professionals in all of the 40 agencies involved in the MAD project were thus asked to contribute data on every felony-level sexual assault case handled during the data collection period of 18-24 months. (Because of variations in research implementation, the data collection period differed among participants.)

The process of developing the research design and other materials was then conducted collaboratively with these participating professionals during the second year of project activity (2004). Professionals participating in the MAD project therefore played a lead role in identifying the variables to be included in the study, refining data definitions and the specific terminology to be used, designing the methodology for recording information on sexual assault cases, and finalizing data forms. This constitutes another important difference between the present study and prior research in this area; while most existing research is designed solely by researchers, the methodology and measures for the MAD project were developed through an intensive process of collaboration lasting more than a year.

**Sampling issues.** For research purposes, it certainly would have been desirable to randomly select communities to participate in the MAD project, so the argument could be made that they constituted a representative sample of U.S. cities. However, this was not possible due to practical concerns. Most important, participation in the MAD project required a considerable commitment of time, energy, personnel, resources, and inter-agency coordination. Therefore, any community with the capacity to participate was by definition un-representative of many U.S. cities; most communities do not have the commitment and coordination to meet the requirements of participating in the MAD project. Beyond their level of commitment to multidisciplinary coordination in their response to sexual assault, however, the communities were otherwise rather diverse in terms of size, character, and region. In other words, while the multidisciplinary response to sexual assault that is seen in these communities is atypical, there is no reason to believe that they are unrepresentative of other U.S. cities in terms of the rate of sexual assault, and the characteristics of victims, offenders, locations, and other crime dynamics.

**Reliability protections.** Throughout the course of the MAD project, a number of important measures were taken to protect the fidelity of the research implementation and the reliability of the data that was submitted. First, a significant proportion of time spent at the initial 3-day conference was dedicated to collaboratively designing a methodology that the participating professionals believed they could realistically implement and that would yield meaningful information for the analytic purposes that were specified for the project. Discussion focused on such questions as: what variables should be included in the study;
how they should be defined; what specific terminology should be used for consistent interpretation across communities and disciplines; when information would be recorded on the data tracking form, and; exactly what procedures would be used to capture the information and submit it to project staff.

With this groundwork laid at the initial 3-day conference in 2003, project activities in the second year (2004) focused on finalizing the research methodology and measures to be used. For example, teleconferences were conducted with multidisciplinary teams in each of the eight communities and also with representatives from professional disciplines across communities. Project staff also communicated in an ongoing way with participating professionals, as versions of the research methodology and measures were continuously refined. Near the end of 2004, the research methodology and measures were finalized and some community teams were able to use them in order to collect data on sexual assault cases for the second half of 2004 (July to December). Other communities were unable to implement the data collection methodology until 2005, and most agencies were able to submit data for all of the sexual assault cases that they handled in the specified time period of 2005 and the first half of 2006 (January to June).

Even as project participants were collecting data, however, various aspects of the methodology were subject to continuous improvement. To illustrate, several variables were added during the course of the data collection, either when members of the research staff or participating professionals identified critical gaps in the information being captured. In addition, the specific terminology used to measure other variables was revised, when problems or inconsistencies in the data collection emerged. Such revisions were always reviewed using an interactive process with participating professionals (for example, through phone conversations, group teleconferences, and email exchanges). One particularly important component in this process was the preliminary presentation of data findings that took place at conferences hosted in all but one of the eight MAD communities. As previously indicated, funding was included in the grant awarded by the William H. Donner Foundation to host a 2-day training conference in each community. One of the communities opted to use this funding to purchase a sophisticated database system to coordinate multidisciplinary data collection on sexual assault cases. However, the remaining seven communities did in fact host a local training conference, and an important part of the technical assistance that was provided in conjunction with this event was a presentation of preliminary data findings from the MAD project. This presentation offered community professionals the opportunity to learn from the preliminary findings and brainstorm potential implications for local reform. In terms of data reliability, it also provided the chance to verify the accuracy of information and the interpretation of language used on the data tracking forms. To that extent, it offered an important check on the reliability of data being submitted.

**Check for reliability.** Participating professionals in the MAD project were asked to submit paper copies of their data tracking forms, so a random sample could be identified to check the accuracy of entry. Approximately half of the agencies were able to do so; the
other half were not able to, for a variety of reasons. First, some agencies did not use paper tracking forms but rather entered their data into the database directly from information gathered in the case file. Other agencies used paper tracking forms but were unable to send them due to policies designed to protect their clients' confidentiality (this was true for most of the community-based victim advocacy organizations). Still others did not use the data tracking forms specifically developed for this project, because they had a standardized system for data collection in place before joining the MAD project. These agencies therefore submitted their data in the form of output as a result of specific queries.

Of the paper tracking forms that were submitted to project staff (approximately 4,450), a random sample was selected for data checking. Given the extremely wide variation in the size of the sexual assault caseload handled by these agencies, the percentage of forms that were submitted to project staff and then randomly sampled for reliability checking ranged from 5% to 94%. Overall, the percentage was 12%.

The number of data entry errors was then recorded, by comparing entries on the tracking form and in the electronic data file. This number was divided by the total number of variables recorded on each tracking form, which ranged from 120 to 145 depending on the particular discipline. Overall, the accuracy of data entry was found to be over 99% using this method. As a result of this process, some systematic sources of errors were identified. For example, there appeared to be differences in the way missing data was handled, which resulted in a higher percentage of errors for variables that were coded as “unspecified” or even “none.” In general, variables with a recorded error rate exceeding 5% for more than one agency were excluded from the analysis (unless the error rate was a function of having a single error found in a small sample of cases; i.e., for an agency with a very small caseload). In addition, some agencies appeared to have relatively high error rates for certain variables. In those cases, the affected data was also excluded from the analysis. Additional data checking measures included eliminating cases if they included no information beyond the date or case number. Out-of-range values were also excluded for all variables; although the entire case was not excluded from the file.

After these measures were taken, the error rate was re-calculated for the data that remained for inclusion in the analysis; it was reduced to approximately 0.2%. In other words, after taking these measures to eliminate systematic sources of errors in the data, the accuracy rate was calculated to be approximately 99.8%.

Data reduction: Cases without a consent defense. The information submitted by participating professionals was also reviewed to determine whether it met the basic criteria specified for the project. Specifically, project participants were instructed to collect data on all sexual assaults that were handled by their agency during the data collection period that involved any of the following situations:

- Perpetrated using force or fear
- Incapacitated victim (could be due to drugs, alcohol, or other reasons)
• Unconscious victim (could be due to drugs, alcohol, sleep, injury or other reasons)
• Victim unable to consent due to severe physical or mental disability
• Victim unable to consent due to age
• Victim unable to consent based on institutionalization (e.g., ward, arrestee, prisoner, resident of a care facility)
• Victim unable to consent due to professional relationship with suspect (e.g., suspect is a public official, medical professional, counselor, clergy member, etc.)
• Other please describe:
• Unspecified

Participants were informed that they could select more than one of the situations, because a particular sexual assault might be characterized in more than one way. Because the purpose of the project was to examine the sexual cases where the consent defense was available, cases were excluded from the data file if the following response was marked: “Victim unable to consent due to age.” Cases were also excluded if the only response that was marked was one of the following:

• Victim unable to consent based on institutionalization (e.g., ward, arrestee, prisoner, resident of a care facility)
• Victim unable to consent due to professional relationship with suspect (e.g., suspect is a public official, medical professional, counselor, clergy member, etc.)

Often this response was marked in addition to others that meet the criteria for inclusion, in which case it was retained in the data file. For cases based on the victim’s inability to consent, the consent defense is not available, and they are therefore not appropriate for testing the hypotheses outlined in this paper. Unfortunately, this excluded a considerable proportion of the cases that were originally submitted by participating professionals, particularly prosecutors. Sexual assault cases based on the victim’s inability to consent (especially due to victim age) represented a significant percentage of the cases submitted by prosecutors participating in the MAD project.

Data reduction: Cases with victims under age 12. Cases were also excluded from the data file if the victim was under age 12 at the time of the assault. This was done for the same reasoning as above; because a consent defense is not available in these cases they are not appropriate for testing the hypotheses outlined in this article. However, it is worth noting that professionals in each community were given a specific age cutoff to use for including cases in the data collection effort. This cutoff was set based on the age that is specified in their state law for the definition of child molestation. Cases were thus also excluded if the victim age fell below the cutoff that was specified by professionals in each of
the communities. It is also worth noting that some agencies had age cutoffs for the population of clients they served; this obviously limited the age range of cases included in the data submitted by those agencies. If there was more than one assault reported at the same time by a victim, participating professionals were asked to use the age of the victim at the time of the most recent assault. \(^1\) Finally, by using cutoffs based on the age of the victim, this meant that some agencies were only able to collect data on those cases where the age of the suspect/defendant also met a specific cutoff. All of these factors limited the cases that were included in the dataset.

As a result of these efforts to check the reliability of the data and reduce it to focus on cases that are appropriate for testing the hypotheses outlined here, the number of cases in the data file obviously decreased. The final breakdown of cases in the sample is thus provided below, with the breakdown by professional discipline:

<table>
<thead>
<tr>
<th>Category</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law Enforcement (Includes Police/SBA)</td>
<td>2,059(^2)</td>
</tr>
<tr>
<td>Forensic Medicine</td>
<td>2,517(^3)</td>
</tr>
<tr>
<td>Prosecution</td>
<td>1,511</td>
</tr>
<tr>
<td>Community-Based Victim Advocacy</td>
<td>3,278</td>
</tr>
<tr>
<td>System-Based Advocacy Only</td>
<td>33</td>
</tr>
<tr>
<td>TOTAL NUMBER OF CASES</td>
<td>9,398</td>
</tr>
</tbody>
</table>

\(^1\) Cases were not eliminated from the dataset if the age of the victim was unspecified; however, these cases are excluded from any analysis involving the variable of victim age by the statistical software.

\(^2\) The number of cases for law enforcement includes 673 cases where information was submitted for both police variables and system-based advocacy variables. To calculate the total number of cases, they are counted as law enforcement. However, these cases are included in the analysis for both system-based victim advocacy variables and law enforcement variables.

\(^3\) The number of cases for forensic medicine includes 386 cases where information was submitted by a program that operates both as the community-based victim advocacy organization and the forensic examiner program in this community. To calculate the total number of cases, they are counted as forensic medicine. However, these cases are included in the analysis for both community-based victim advocacy variables and forensic medicine variables.
Exemption from informed consent. Because data for the MAD project have been recorded anonymously, without any identifying information for the victim(s), suspect(s), witness(es), or others involved in the case, any potential risk to human subjects has been minimized. As a result, the project has been granted an exemption from a private Institutional Review Board (Liberty IRB), releasing project staff from the requirement to seek informed consent from victims whose sexual assault cases are included in the study. Liberty IRB also granted the project a waiver for any HIPAA requirements (the letter of approval is on file and available upon request). However, all project participants and researchers were asked to sign a confidentiality agreement that was approved by Liberty IRB and that governs the use, sharing, and reporting of data and findings. This confidentiality agreement is also available from the study authors.
Appendix U-Selected Documents from MAD Project Study

MAD Data Findings:
Sexual Assault Cases of Police, Prosecutors, Forensic Examiners, and Victim Advocates

Kimberly A. Lonsway, Ph.D.
Sgt. Joanne Archambault (Ret)
End Violence Against Women (EVAW) International

Note: We would like to thank the William R. Dornan Foundation for financially supporting this project since its inception.

MAD Project: Data Collection

Data collected on sexual assault cases over a period of 18-24 months*
- Law enforcement
- Forensic examiners
- Community-based victim advocates
- System-based victim advocates
- Prosecutors

*The data collection period varied by agency.

MAD Project: Data Collection

- Agency staff filled out a form for all felony-level, sexual assault cases seen during the time period.
- Include cases with:
  - Force or threat of force
  - Victim who is unable to consent to sexual activity (e.g., because of incapacitation, unconsciousness, severe disability, minor age, institutionalization)
  - Attempted and completed offenses
- Based on how case came in, not final disposition

MAD Project: Data Collection

- Sexual assault cases were excluded if they were based on the victim’s inability to consent to sex due to:
  - Victim’s age (e.g., child molestation cases)
  - Professional relationship (e.g., doctor)
  - Victim’s institutionalization (e.g., prison)
- In other words, the consent defense must have been available to suspects

Data Submitted by Each Discipline (Total = 9,389)
(Number of cases within each discipline)

<table>
<thead>
<tr>
<th>Discipline</th>
<th>Number of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical</td>
<td>2,011</td>
</tr>
<tr>
<td>Medical (CSF)</td>
<td>2,011</td>
</tr>
<tr>
<td>Police (SBA)</td>
<td>2,000</td>
</tr>
<tr>
<td>Forensic</td>
<td>1,561</td>
</tr>
<tr>
<td>Prosecutors</td>
<td>1,012</td>
</tr>
</tbody>
</table>

Victim Gender

Note: Unspecified cases are omitted. Percentages are calculated based on the total number of cases within each discipline; they do not sum to 100% within each discipline.

<table>
<thead>
<tr>
<th>Discipline</th>
<th>Female</th>
<th>Male</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>94.6%</td>
<td>5.4%</td>
<td>100%</td>
</tr>
<tr>
<td>Medical</td>
<td>95.7%</td>
<td>4.3%</td>
<td>100%</td>
</tr>
<tr>
<td>Medical (CSF)</td>
<td>95.7%</td>
<td>4.3%</td>
<td>100%</td>
</tr>
<tr>
<td>Prosecutors</td>
<td>94.5%</td>
<td>5.5%</td>
<td>100%</td>
</tr>
<tr>
<td>Prosecutors</td>
<td>94.5%</td>
<td>5.5%</td>
<td>100%</td>
</tr>
</tbody>
</table>
Appendix U-Selected Documents from MAD Project Study
Law Enforcement Variables

Total of 2,059 cases
Medical Variables

Total of 2,517 cases

MEDICAL: Time between sexual assault and forensic medical examination (Unspecified cases removed, n = 2,500)

- Same day: 55.6%
- 1-6 days: 41.2%
- 1-2 weeks: 1.2%
- 1-2 months: 0.2%
- >1 year: 0.0%

MEDICAL: Reported to Law Enforcement? (Unspecified cases removed, n = 2,181 cases)

- Yes, acquaintance: 18.0%
- Yes, stranger: 19.4%
- No report: 62.6%

Injuries observed with naked eye

Did the forensic examiner observe any of the following types of injury using only the naked eye? That is, without the aid of a colposcope or staining dye of some kind? (please mark all that apply)

MEDICAL: Injury Observed with Naked Eye (Number of 2,517 cases, more than one may apply)

- Genital injury: 14.4%
- Non-genital injury: 34.1%
- Injury observed with naked eye: 9.0%

Injuries observed with colposcope

Did the forensic examiner observe any of the following types of injury using the colposcope and/or staining dye, that were not observed with the naked eye? (i.e., injuries not already described in the previous question) (please mark all that apply)
Advocacy Variables

Total of 3,663 cases
Appendix U-Selected Documents from MAD Project Study

A Closer Look: Relationship Categories

Patterns of case characteristics and outcomes within law enforcement and prosecution

PROSECUTION CASE DISPOSITION:
 Stranger Cases (n = 195 cases, no unspecified)

PROSECUTION CASE DISPOSITION:
 Brief Encounters (n = 153 cases, no unspecified)

PROSECUTION CASE DISPOSITION:
 Non-Strangers (n = 365 cases, no unspecified)