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Wisconsin Adult Sexual Assault Response Team Protocol

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The Adult Sexual Assault Response Team Protocol was developed by the Wisconsin Statewide SART Protocol Development Team. The document was compiled and edited by the Wisconsin Coalition Against Sexual Assault (WCASA) and published by the Wisconsin Office of Justice Assistance, Violence Against Women Program. Please refer questions and comments to:

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As a “living document”, the protocol reflects current best practices in responding to adult sexual assault. We invite readers to contact the Office of Justice Assistance to recommend and share information on emerging best practices that will contribute to the continued development of this protocol.

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*Wisconsin Coalition Against
Sexual Assault*

June 1, 2009

Dear Colleagues,

The Wisconsin Office of Justice Assistance and the Wisconsin Coalition Against Sexual Assault are proud to release the Wisconsin Protocol for Response to adult Sexual Assault. We offer this protocol to Wisconsin communities as a guide to establishing and/or evaluating best practices in responding to victims of crime of adult sexual assault. Responding to victims of sexual assault in a respectful multi-disciplinary manner is important work. The potential for further victimization is omnipresent within the criminal justice system. Sexual Assault Response Teams (SART) providing collaborative victim focused management of these cases reduces the potential for re-victimization and begins the process of healing by returning power and control to the victim. We are aware that communities may identify significant gaps in resources identified as core capabilities in the Protocol. WCASA and OJA are committed to continued efforts to support communities in their efforts to fill these gaps.

The protocol is the result of 15 months of collaborative work of 16 highly qualified people representing all multi-system stakeholders with a wealth of experience in responding to sexual assault. It has been our privilege to provide staff support and funding to this hard working collaborative group. We offer our sincere gratitude to the SART Protocol Development Committee and the group of survivors who reviewed their work for their commitment and unselfish sharing of time and experience to the development of this document.

We view the release of this Protocol as the beginning of an exciting process of Implementation at the State, County, and local level. We welcome our Wisconsin partners into this important work. We intend to demonstrate our commitment to the victims of sexual assault and their need for healing and justice in our on-going efforts to support communities, justice system partners, and victim service providers in building individual professional skills and effective collaborative partnerships to meet our goal of fully functional SART response across our state.

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March 14, 2011

Dear Colleagues,

The Wisconsin Department of Corrections offers this addition to the statewide Wisconsin Sexual Assault Response Team Protocol. Responding to victims of sexual assault in detention is important work and we believe this protocol constitutes best practice in insuring a victim centered and offender focused response to the crime of sexual assault.

This addition represents months of collaborative work by twelve highly qualified people representing the Wisconsin Department of Corrections, Wisconsin Coalition Against Sexual Assault, Wisconsin Office of Justice Assistance, PREA Investigators and Victim Witness Specialists. On behalf of my department, I offer our sincere gratitude to the work group responsible for the creation of this addition to the statewide protocol.

Sincerely,

A handwritten signature in cursive script, reading "Gary H. Hamblin".

Gary H. Hamblin
Secretary

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The SART Protocol would not have been possible without the steadfast leadership and support of the Statewide Protocol Development Team. Team members gave their time, shared their ideas and rolled up their sleeves to assist in the planning, writing and editing of the protocol. Their collective passion for creating a victim centered response to sexual assault has driven the development of the SART Protocol.

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Special acknowledgement should go to CJ Figgins-Hunter, SART Coordinator from the Wisconsin Coalition Against Sexual Assault, for taking the ideas, feedback and recommendations of the Protocol Development Team and shaping them into a useful, living document that will guide SART responses for years to come. We would also like to acknowledge the Oregon Attorney General's Sexual Assault Task Force for their gracious permission to incorporate ideas and policies developed from their SART Protocol into this document.

WISCONSIN ADULT SEXUAL ASSAULT RESPONSE TEAM PROTOCOL

Overview of SART Development

History of The Wisconsin Statewide S.A.R.T. Protocol Development Project

In 2007, the Office of Justice Assistance (OJA) received funding under a grant from the Office on Violence Against Women (OVW) Grants to Encourage Arrest Policies and Enforcement of Restraining Orders Program. The Wisconsin Coalition Against Sexual Assault (WCASA) was a sub grantee and was assigned to develop and implement a statewide protocol designed to respond to sexual assaults in a uniform way utilizing the four major disciplines of a Sexual Assault Response Team; Advocacy, Law Enforcement, Prosecution, and SANE (Sexual Assault Nurse Examiners).

As a result of this funding - the following Purpose and Mission statements were developed to guide the creation of the protocol:

Purpose: *to present final draft of the State of Wisconsin Sexual Assault Response Team Guidelines to an authoritative body for adoption by May 15, 2009.*

Mission: *to develop and produce written guidelines that will guide the practice of SART Operations to optimize community wide response to SA victims, avoiding re-victimization, and encouraging victim participation where appropriate in the justice system process and improving a community's ability to hold perpetrators accountable.*

Once the purpose and mission statements were in place, WCASA and OJA staff convened a team of statewide experts to assist in the development of the protocol. The intent of the protocol team was threefold: (1) to assess the current response to sexual violence in the state of Wisconsin; (2) to research sexual assault response team protocols from other states; and (3) to develop a more victim centered, offender focused response to guide existing and emerging SART teams in the state of Wisconsin. The protocol team met five times over an eight-month period and from those discussions developed a best practice model for SART response. Recommendations from meetings with survivors, law enforcement officers and operating SART teams in Brown County, Fond du Lac County, Kenosha County, Marathon County and Racine County informed the development of this protocol. Recommendations from the Justice System Training and Advisory Committee were also included.

Participation of Victims, Survivors and Stakeholders

Focus groups were conducted with various groups of victims of sexual assault. Approximately 80 adult victims – in various stages of healing from the trauma of sexual assault – reviewed the protocol and provided feedback to the Protocol Development Team. The goal of the victim focus groups was to ensure the Protocol Team developed a victim centered document that was helpful to victims of sexual assault when participating in the SART response.

Additional focus groups were conducted with various law enforcement agents. Approximately, 50 law enforcement officers, first responders and investigators, reviewed the protocol and provided feedback. The goal of the law enforcement focus groups was

to ensure the Protocol Team developed a useful working document that would guide law enforcement response and investigations of sexual assault.

Operational SART teams throughout the State of Wisconsin were also asked to review the protocol and provide feedback to the Protocol Development Team. The goal of the SART focus groups was to ensure the protocol would be operational for communities already addressing their SART response.

Sexual Assault in Wisconsin – An Overview

According to “*Sexual Assaults in Wisconsin 2004 - Revised*” published by the Office of Justice Assistance’s Statistical Analysis Center - in 2004, there were **5,628** sexual assaults reported to law enforcement in Wisconsin.¹ Additionally, according to the “*2005 National Crime Victim Survey*” – published by the U.S. Department of Justice Bureau of Statistics 2006 – there were **191,670** sexual assaults reported in the United States in 2005.² Furthermore, the same report states only **38.3%** of total rapes are ever reported to law enforcement.

If we apply the above formula to the statistics for Wisconsin, we will see the reported number of sexual assaults is 5,628 and since only 38.3% of sexual assaults are **reported**, we can infer that the actual number of sexual assaults occurring in Wisconsin in 2005 was approximately 14, 695. These numbers show that sexual assault is a significant problem in the state of Wisconsin.

Sexual Assault is a community issue that must be addressed at a community level. One effective strategy to address sexual assault at a community level is the use of a multi-disciplinary Sexual Assault Response Team.

However, there is more these numbers fail to show. The numbers fail to show the devastating consequences resulting from sexual assault. They fail to show the ripple effect of sexual assault and its effect on the victim, friends, family and loved ones. They fail to show the financial losses incurred by low work productivity, medical bills, and missed work days. They fail to show the toll that sexual assault takes on a person’s body – the physical symptoms, sleep deprivation, and anxiety experienced by victims. They fail to show the emotional and mental cost of sexual assault on victims and the impact on the community when sex offenders are not held accountable for their actions.

Sexual Assault is a community issue that must be addressed at a community level. One effective strategy to address sexual assault at a community level is the use of a multi-disciplinary Sexual Assault Response Team.

SART Pre-Planning

Successful SARTs require a certain amount of preplanning. Some communities use their Coordinated Community Response teams (CCRs) as a springboard for planning around the SART. SARTs and CCRs have many similarities and differences.

¹ Sexual Assaults in Wisconsin 2004 Revised. Developed by the OJA Statistical Analysis Center. Available online at: <http://oja.state.wi.us/docview.asp?docid=11165&locid=97>.

² National Crime Victimization Survey. Criminal Victimization, 2005. Bureau of Justice Statistics Bulletin. Available online at: <http://www.ojp.usdoj.gov/bjs/pub/pdf/cv05.pdf>.

What is a CCR?

The purpose of a Coordinated Community Response Team (CCR) is to provide a multidisciplinary approach and response to issues around sexual assault. The CCR team can assist service providers and system members in communication, networking and collaboration, and bring to light gaps in protocols or other services needed to support victims.

The CCR team also provides an opportunity for members of the community, offender treatment providers, schools, and clergy members to join with system/service providers to discuss sexual assault and its effect on the community. The hallmark of a strong CCR is equal and collective participation in the development of services, event planning, and the creation of prevention strategies needed to boost community awareness and decrease sexual violence.

While the CCR team has some of the same service/system members as the SART, it is considerably larger and includes other professionals, community members, and stakeholders. Members of a CCR Team may include:

- District attorneys
- SANE nurses/medical personnel
- Sexual assault/domestic violence victim advocates
- Child Protection Workers
- Social Workers
- Law enforcement personnel
- Clergy
- Business owners
- School staff
- AODA counselors
- Homeless shelter staff
- Ethnic minority advocates
- Immigration/Trafficked advocates
- Representatives from the disabilities or aging networks
- Survivors

One key difference between a SART and a CCR is the emphasis that CCR places on *community*. The CCR is the response of communities, whereas the SART is the response of the members who provide direct intervention to the victim as they interact with the criminal justice system.

The Wisconsin Coalition Against Sexual Assault (WCASA) has developed a SART/CCR tool kit to aid communities in planning for their SART and CCR teams. The toolkit is available on the WCASA website at www.wcasa.org and includes information on:

- Pre-planning/before you meet
- Starting/renewing a team
- Activities
- Assessment
- Data collection

What is a Sexual Assault Response Team (SART)?

WCASA, OJA and the SART Protocol Development Team define a SART as a multidisciplinary response team that provides direct intervention to sexual assault victims as they interact with the criminal justice system and coordinates effective investigative

and prosecutorial efforts in connection with a report of sexual assault. The SART team is (minimally) comprised of representatives from Law Enforcement, SANE, Advocacy and Prosecution. A SART is designed as a vehicle for collaboration, relationship building, training, education and accountability among and between professionals, making the most of limited public resources. Although there may be similarities between this protocol focuses primarily on adult offenders perpetrating on adult victims (aged 16 and older). Future revisions to this Protocol may include additional sections focusing on juvenile offenders (under age 17) or child victims of sexual assault that this Protocol does not attempt to address at this time.

A SART:

- Establishes a protocol to provide seamless victim centered and offender focused response to victims of sexual assault as they interact with the criminal justice system
- Educates the criminal justice system and the community to raise awareness of sexual assault, decreases victim blaming and increases offender accountability
- Seeks feedback from victims of sexual assault to expand understanding of sexual assault dynamics, improve criminal justice system response and assess effectiveness of team
- Builds relationships with individual responders to sexual assault that guarantee the opportunity for resolution in the event of a challenge or miscommunication among members of the SART
- Identifies valuable community resources and avoids duplication of services
- Shares information, knowledge and expertise among team members

SART is defined as a multidisciplinary response team that provides direct intervention to sexual assault victims as they interact with the criminal justice system and coordinates effective investigative and prosecutorial efforts in connection with a report of sexual assault.

A primary goal of a SART is to reduce further trauma to a sexual assault victim as she/he accesses the criminal justice system – allowing the victim to see the criminal justice system as an ally that gathers relevant information fairly and without prejudging the facts. SARTs also strive to mitigate the effects of sexual assault on victims and their families, hold perpetrators accountable, enhance community safety, and prevent future victimization. In order to accomplish these goals, a SART *must above all else be victim centered in its response. This means that each member of the SART recognizes that he or she is accountable to the victim.* A SART must be able to distinguish between obtaining a criminal conviction/sentence and what the victim would experience as having achieved justice. Justice is served when victims are listened to, believed, taken seriously and included in the criminal justice process (if they desire). This is particularly important since one reason victims give for not reporting a sexual assault is the fear of not being believed.³ It is important to the safety of a community that victims believe that reporting to and participating in the criminal justice system is a safe and viable option.

³ Pelson R., Paul P. (2005) The Reporting of Domestic Violence and Sexual Assault by Non-Strangers to the Police. *Journal of Marriage and Family*. 67: 597-610.

A Victim - Centered Response

A victim centered response includes:

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

An Offender – Focused Response

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

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

An offender focused response considers the following:

- Adult sex offenders are often repeat or serial offenders.⁴
- Adult sex offenders often target people they know.⁵
- Adult sex offenders are often practiced liars who have a history of avoiding detection through deception and manipulation.⁶

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

⁴ Lisak D and Miller P. (2002) Repeat Rape and Multiple Offending Among Undetected Rapists. *Violence and Victims*, 17:1.

⁵ Ibid.

⁶ Salter A. (2004) *Predators; Pedophiles, Rapists and Other Sex Offenders*. New York: Basic Books.

SART Development

SART development is a community endeavor and can emerge from the work of a Coordinated Community Response Team (CCR). Communities should assess their needs and their response to sexual assault and tailor their SART to what works for their community. However, there are several objectives and benchmarks that can be used in SART development. This is by no means an exhaustive list, but the objectives and benchmarks include: a statement of purpose and mission, commitments, measurable objectives and written member roles and responsibilities which include guidelines for dealing with decision making, conflicts and case reviews.

Statement of Purpose and Mission

The mission statement of the protocol is to develop and produce written guidelines that will guide practice of SART operations to optimize community wide response to sexual assault victims avoiding re- victimization and encouraging victim participation where appropriate in the justice system process and improving a community's ability to hold perpetrators accountable.

A mission statement serves as a guide for the operations of the SART and is a statement of the beliefs and values of the team. Prior to drafting a mission statement, prospective members of a SART may want to discuss the following questions:

- *What do we believe about the crime of sexual assault?*
- *Do we, as a team, have consensus about what constitutes a crime of sexual assault?*
- *How do our beliefs about sexual assault impact our response to victims?*
- *What principles, beliefs and values about victims and sex offenders guide our work?*
- *What does it mean to be victim-centered in a sexual assault response?*
- *What does it mean to be offender focused in a sexual assault response?*

The mission or purpose statement developed by the team members should be reviewed often and used as a tool to assess the work of the team.

Written Commitments

A SART should have a document outlining the commitments of team members. The document can include: team members' contact information and names of alternate members from their agency assigned to the team, agreement to attend team meetings, resources an individual will bring to the team, and agreement to support the SART process. Examples of written commitments include MOUs (memorandums of understanding) and letters of agreements. A sample MOU is included in the appendix.

Measurable Objectives

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

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

Written Member Roles and Responsibilities

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

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

Case Review

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

A victim centered response recognizes the importance of when, how, and what information is shared within the team and places paramount importance on the safety and confidentiality of the victim. It is vital for team members to understand and respect that the community based advocate is unable to share *any* information without the written consent of the victim. Early in the process, SART members should have a thoughtful conversation about confidentiality and develop a written agreement that recognizes the role that confidentiality plays in communications between a victim and an advocate.

A victim centered response recognizes the importance of when, how, and what information is shared within the team and places paramount importance on the safety and confidentiality of the victim.

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

Decision Making and Disagreements

Disagreement is a normal and often healthy part of any team. SART members can experience conflict and disagreements. However, effective teams keep their mission and goals in mind even when they are experiencing conflict. Effective teams ask the question "*What impact will this have on the victim?*" – asking this question may not always settle the issue, but when team members share a victim centered response and place high priority on the victim as their main concern, their shared commitment inhibits conflict and consistently refocuses the team on their purpose.

Victim Blaming

One of the most crucial and challenging roles of a SART is to identify and stop victim blaming both in the community and among fellow team members. Victim blaming refers to focusing unfairly on the behaviors and actions of the victim and holding the victim responsible for the crime of sexual assault. Victim blaming holds the view that if a victim hadn't engaged in a certain action or behavior she/he wouldn't have been sexually assaulted. This argument is problematic for many reasons. There is no action or behavior where the natural end result is sexual assault, and the only common denominator in a sexual assault is the offender. While it is necessary for prosecutors to consider potential jury viewpoints when making decisions about what can be proven beyond a reasonable doubt using only admissible evidence at a trial, this litigation analysis should not be confused with the messages the SART gives to each other, to victims and to alleged offenders during the course of an investigation and prosecution.

Media Inquiries and Public Education

A SART is also an excellent vehicle for communication about the nature and scope of public communications regarding particular cases or categories of cases. A police agency struggling with how much and what kind of information to publically release regarding a sexual assault at the front end of a case, for example, may consult with other SART members to create maximum offender accountability and minimize unnecessary victim trauma.

Advocacy Response

Community Based Advocacy

The Role of Community Based Advocates

Community based advocates are employees of local non-profit organizations whose primary purpose is to provide services to victims of sexual assault regardless of whether or not the victim is involved with the criminal justice process. Community based advocacy has a rich history of grassroots organizing within a larger context of social change. Their commitment to a broad understanding of the issues surrounding violence against women allows community based advocates to provide services to victims with a well developed understanding of the dynamics of sexual assault.

The role of a community based advocate in response to sexual assault is crucial. There is no other discipline whose primary function is to advocate for the interest and wants of the victim. Under Wisconsin Statute 905.045 community based advocates have privilege and their communications with victims are confidential.⁷ *This is one important difference between community based advocates and other systems based advocates.* It is also important to understand that unlike most other justice system based team members, a community based advocate's response and relationship to the victim can continue long after the case is resolved. Community based advocates provide confidential crisis intervention services, support, information, referral and a variety of ancillary services such as help with transportation, childcare, etc.

Community based advocates are an integral and necessary part of providing a victim centered response. Community based advocates help to keep the investigative and prosecutorial process focused on the offender.

Best practice calls for trained, community based advocates to accompany victims through the healthcare and criminal justice systems. Community based advocates help victims navigate the criminal justice system, provide education about the dynamics of sexual assault, and assist the victim in accessing other services within the community. Most importantly, community based advocates bear witness to the victim's experience. Community based advocates listen to the victim, believe the victim, work to empower the victim and honor the choices the victim makes.

For the community based advocate it is the victim – not the needs of the system – that identifies the outcome sought through the advocacy strategy. Therefore, community based advocates are an integral and necessary part of providing a victim centered response. Community based advocates can help to keep the investigative and prosecutorial process focused on the offender.

Other Types of Advocacy Agencies and Programs

Justice System Advocates – The role of Justice System Advocates is to provide support and communication to victims involved in the criminal justice system. Victim Witness Advocates are employees of the District Attorney's Office, or Law Enforcement. *They do not share the same privilege as Community Based Advocates and are obligated to share information about the victim(s) and/or about the sexual assault(s) case(s) with other members of the criminal justice system.* Victim Witness Advocates can provide

⁷ Confidentiality of Communication Between an Advocate and a Victim. Information Sheet Series published by the Wisconsin Coalition Against Sexual Assault. June 2, 2006.

information, support and accompaniment to court. Victim Witness Advocates provide services to victims of all crimes not just sexual assault. It is important for the sexual assault victim to be informed about the differences in roles between Victim Witness Advocates and Community Based Advocates.

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

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

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

Confidentiality, Privilege and Mandated Reporting

905.045 – (2) general rule of privilege
905.045 – (3) who may claim privilege
905.045 – (4) privilege doesn't apply in cases involving children – mandated reporting.

Confidentiality is extremely important to sexual assault victims. Laws, regulations, and policies protect the confidentiality of communications made between a victim and an advocate at a community based sexual assault service provider (SASP).

Under Wisconsin Statute 905.045 community based advocates have a privilege and their communications with victims are confidential.

In general, privilege laws protect the confidentiality of information shared between a professional and a client. Privilege laws are rules of evidence. This means the privilege prevents a court from requiring the professional or the client to disclose privileged information in a court proceeding. The privilege applies only if the information is shared on a confidential basis. Therefore, even though the privilege rule governs court proceedings, it is important to make sure the information is still confidential when it is sought in a courtroom.

Wisconsin law states that “[a] victim has a privilege to refuse to disclose and to prevent any other person from disclosing *confidential communications* made or information obtained or disseminated among the *victim*, an *advocate* who is acting in the scope of his or her duties as an advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of an advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim” (emphasis added).

The basic idea behind a confidential communication is that it is made in a way that it is “. . . not intended to be disclosed to third persons . . .” This means information a victim shares with an advocate in front of a third person who does not work at the sexual assault agency—such as a law enforcement officer, victim witness staff person, or prosecutor—is not confidential and is not protected by privilege. However, the privilege does apply when the communication is made between a victim and the advocate in front of persons present to support the victim such as “. . . family members of the person receiving counseling, assistance, or support services and members of any group of individuals with whom the person receives counseling, assistance, or support services.”

Just as no one can require a lawyer to disclose information about a client due to attorney client privilege, no one can require an advocate to disclose information about a client.

If a victim wants an advocate to share information with the court, the victim can waive privilege. Ideally, a victim should waive privilege only after an advocate has explained to the victim the consequences of waiver. For example, victims should know that it may not be possible to waive privilege for some information but retain confidentiality for other information. Once privilege is waived, the court decides what is relevant to the case and may ask the advocate to share more information than the victim wanted.

Occasionally, an attorney will seek to force an advocate or a victim to testify about the information the victim shared with the advocate. When this happens, the advocate may receive a legal document called a subpoena. Most sexual assault service providers will challenge the subpoena on the basis of privilege and, most of the time, these arguments are successful.

Just as no one can require a lawyer to disclose information about a client due to attorney client privilege, no one can require an advocate to disclose information about a client. An advocate who did so would violate the privilege statute. The advocate cannot share information with others without the written consent of the victim, even with the best of intentions and when those others are working to help the client.

Best Practices for Community Based Advocates

Use of an Empowerment Philosophy

Advocates do not encourage or discourage victims from reporting or participating in the criminal justice system. An advocate assists victims in making informed choices. The victims' choices and needs determine how the advocate proceeds.

It is important to remember that an advocate may be responding to a victim regardless of whether other systems are accessed.

24-Hour Response

Advocacy should be available 24 hours a day/365 days a year both on a crisis line and in person. Since victims may enter the system in a variety of ways, either by contacting a 24-hour hotline, through an Emergency Room or by contacting Law Enforcement, it is imperative that the initial responder contact advocacy immediately.

24-hour Advocacy Hotlines: A 24-hour hotline should be answered by a live, trained person and should offer referral, information, support and access to round the clock in-person advocacy. The 24-hour hotline should also have multi-lingual and accessible

capabilities determined by the makeup of the community. This includes devices for the Deaf community and to those who are hard of hearing, including translators, etc.

The following is a list of items a hotline advocate may ask or do during a call from a victim. The list is not exhaustive and can be determined by the advocacy agency.

- Ask for a call back number in case of a hang up.
- Assess the victim's safety and emergency/medical needs.
- Inform the victim of their options and provide information about how to preserve evidence.
- Dispatch an in person advocate and transfer information.

Use of Community Based Advocates

The most independent advocacy service – community based advocacy - should have someone available and accessible at all times. It is considered best practice to utilize community based advocates in responding to sexual assault.

Team Advocacy

Best practice standards recommend having two advocates available to ensure appropriate support will be available for victims and their allies. One advocate should be a community based advocate. A second advocate may be a “system based,” such as an employee of a prosecution office, a police department, or a health care provider. Availability of both types of advocates ensures a collaborative system response.

Vertical Advocacy

It is considered best practice for the victim to have the same advocate throughout the reporting process. Further advocacy can be determined through a comprehensive case management plan.

Advocate Availability and Access

Community-based advocates should be available to meet with victims at the hospital, law enforcement agency, or as determined by community protocol. At the victim's request, community-based advocates should be accessible to victims and allowed in law enforcement interviews, SANE exam rooms, prosecution meetings—everywhere the victim touches through the system.

Cultural Competency/Diversity

It is best practice for community-based advocacy agencies to have a staff of advocates that represents the population the agency is serving. It is also best practice for agencies to have thoughtful, intentional and continuous training and discussion on cultural diversity, and how oppression, racism, ageism, audism, and other forms of discrimination impact the lives of victims and create unique barriers to reporting and prosecuting sexual assault crimes.

Victims with Special Needs

It is best practice for community –based advocacy agencies to have a staff person who is experienced in working with adult sexual assault victims with special needs. For example, an adult who is developmentally, mentally disabled or autistic will potentially need a different type and/or amount of advocacy after experiencing a sexual assault. It is important for the community-based advocate to assist in helping to educate the other SART members about working with a sexual assault victim with special needs if the victim decides to access the criminal justice system.

Case Management

Advocacy is an essential part of the service provision process and it is important (with permission from the victim) that law enforcement, SANE and district attorneys keep advocates informed about the progress of a sexual assault investigation. While the primary role of a community-based advocate is to support the victim, advocates can be strong allies to other SART members by providing needed case management services for victims. Advocates can support victims who decide to report a sexual assault by removing barriers inhibiting a victim from being involved in the criminal justice process, and link victims to available community services that support healing. All of these case management activities are part of a victim-centered response and support a good outcome for the victim and the system.

Record Keeping

Community-based advocacy agencies are responsible to keep records for funding purposes. Advocacy agencies should have a protocol about what information is kept, how privacy and confidentiality is maintained, and under what conditions information is released and how information is released.

Law Enforcement Response

Law Enforcement Response

The Role of Law Enforcement

The role of law enforcement is to protect and serve the public, which includes the obligation to investigate alleged crimes. In cases of sexual assault, this means protecting the safety of the victim and the community while collecting evidence in a fair and lawful manner. Law enforcement agencies are often the point of first contact for the victim. They initiate the multidisciplinary response by calling the advocate. The primary responsibility of law enforcement in relation to sexual assault is to determine if there has been a sexual assault that meets the criteria for a crime as defined by Wisconsin statutes that include 940.225.⁸

Determining the criteria for a crime involves putting together a factual history by collecting statements from the victim, any witnesses, and suspect(s) as well as collecting any physical and corroborative evidence.

Victim Centered, Trauma Informed and Offender Focused Response

It is crucial for every discipline to have a victim-centered response when dealing with sexual assault. It is equally important for every discipline to be informed about the effect of trauma on an individual. Trauma can affect an individual's affect, memory, and ability to give detailed information. For law enforcement, this means being educated about the effect of trauma on an individual and treating each alleged victim with consideration, professionalism, and compassion.

Law enforcement understands the impact of an officer involved in a "critical incident". A critical incident is defined as "any event that has a stressful impact sufficient enough to overwhelm the usually effective coping skills of an individual."⁹

Common reported reactions following a "critical incident" include:

- Anxiety
- Fear for the safety of yourself or loved ones
- Preoccupation with the stressful event
- Flashbacks in which the individual mentally re-experiences the event
- Physical symptoms; muscle aches, headaches, fatigue
- Disbelief at what has happened, feeling numb
- Problems with concentration or memory (especially aspects of the traumatic event)
- A misperception of time
- Increased startle response
- Feelings of guilt and/or self doubt related to the traumatic event, even if misplaced when evaluated by an impartial person

A victim-centered response to sexual assault recognizes the assault as a "critical incident" and uses the understanding and knowledge of "critical incident stress" when dealing with a victim of sexual assault.

⁸ Wisconsin Statute 940. Crimes Against Life and Bodily Security. Available online at: <http://www.legis.state.wi.us/Statutes/Stat0940.pdf>.

⁹ Kulbarsh, P. Critical Incident Stress: What is expected and when to get help. Posted online on Officer.com. Available online at: [http://www.officer.com/web/online/Police-Life/Critical-Incident-Stress/17\\$38344](http://www.officer.com/web/online/Police-Life/Critical-Incident-Stress/17$38344).

A victim-centered response to sexual assault recognizes the assault as a “critical incident” and uses the understanding and knowledge of “critical incident stress” when dealing with a victim of sexual assault.

Law enforcement must also be offender focused in its response to sexual assault. Being offender focused means understanding that offenders often choose victims based on the victim’s accessibility, vulnerability and perceived lack of credibility. A victim centered law enforcement response acknowledges that victims of sexual assault are *very often* those individuals perceived as lacking in credibility. Offenders hope that law enforcement will participate in victim blaming, not educate themselves about offenders, and not have a solid understanding of the effects of trauma. All of these can combine to allow the offender to continue to re-offend.

Best Practices for Law Enforcement

Initiating the Collaborative Response

Law enforcement is often the first contact for a victim of sexual assault and therefore, should initiate the collaborative response by calling the community based advocate. The community based advocate should be contacted whether or not a victim chooses to have a sexual assault exam.

Role of Law Enforcement During the Forensic Exam

Law enforcement can be present and participate with the SANE during the taking of the assault and forensic history. However, the victim should always be allowed to determine who is present (e.g. community advocate, system advocate, law enforcement) during the forensic exam. Note that for court purposes, the SANE nurse can adequately present all relevant facts regarding the exam.

Conducting an Initial Victim Statement Interview

The initial victim statement is typically taken upon first contact with the victim and law enforcement. The initial victim statement is the opportunity for law enforcement to obtain basic information and establish the location and elements of the crime. The community based advocate should be available to sit in on the initial victim statement if the victim chooses. The initial victim statement is **not** a comprehensive interview – the initial statement is used to assess safety and health needs, ascertain jurisdiction, identify and preserve sources of evidence and determine next steps.

Conducting a Comprehensive Interview/Assault History

The comprehensive interview and assault history should be performed by officers who have specific training in sexual assault interview and investigations. The interview should take place *after* the forensic exam has been completed and the victim has been allowed to shower (if desired) and dress. A community based advocate should be allowed to be present during the interview, if the victim desires. The community based advocate and law enforcement officer should work together to minimize re-victimization during the interview process.

Victim interviews take time to complete. Law enforcement should allow ample time to conduct a thorough victim interview. The comfort and needs of the victim should be taken into consideration throughout the course of the interview process. Law enforcement should consider that trauma, cultural differences, cognitive ability, fear, self-blame and other factors can influence the victim’s ability to provide concise details about the assault. Law enforcement and the community based advocate should work together

to ensure the victim's comfort in order to facilitate the disclosure of as many relevant details as possible.

Purpose of Comprehensive Interview/Assault History

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

- Verify, clarify and expand on the initial interview
- Confirm and establish the elements of the crime
- Develop supporting details related to the assault and the circumstances surrounding the assault

Offenders often target victims whom they perceive as not believable if they report the crime, especially victims who have a previous criminal history, who abuse alcohol and/or drugs and victims with physical, cognitive and or mental disorders. Victims may also fear not being believed. A victim centered approach to interviewing acknowledges these factors and attempts to make the victim comfortable by:

- Establishing a rapport before beginning the interview
- Explaining how the investigative process works and why certain questions are necessary
- Avoiding victim blaming questions – such as “why did you” or “why didn’t you”- unless the context and purpose of such a question is explained to the victim
- Encouraging the victim to provide a comprehensive statement of the event from beginning to end – with only minimal interruption but with the understanding that follow up questions will be necessary for clarification of various points throughout the statement
- Acknowledging the impact of trauma on the victim during the interview

Reluctant and/or Recanting Victims

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

- A victim's feeling of embarrassment, fear, and shame
- A victim wanting to put the assault behind them, avoid answering questions, repeating the story or facing the perpetrator in court
- Pressure from offender, friends, family or community
- Pressure from cultural and/or religious communities
- Concern or confusion about the likely outcome of a prosecution
- Concern that the victim will not be believed

Law Enforcement Best Practices Protocol

Best practice protocols for law enforcement should focus on: (a) protecting the safety and well-being of the victims and ensuring they receive proper medical attention; (b) initiating a collaborative response; (c) collecting and preserving evidence, including initial

witness statements; (d) identifying whether a crime has occurred; and (e) conducting an investigation. Each law enforcement responder has a unique role and process that should be followed:

Dispatcher Protocol Checklist:

- ☐ Check safety (weapons, injuries, direction of travel of suspect, etc.)
- ☐ Check special language/access needs.
- ☐ Confirm victim's safety and medical needs; activate Emergency Medical Services as needed.
- ☐ Seek suspect information; description, direction of travel, vehicle, etc
- ☐ Provide SANE related evidentiary advisories – not to bathe, change clothes, comb hair, brush teeth, touch any touch any articles or furniture the assailant may have touched, etc.
- ☐ When a SART trained officer is on duty, the SART trained officer will be dispatched to the scene. When a SART trained officer is not on duty, a uniform officer will be dispatched to the scene.
- ☐ Dispatcher is to remain on the line with the victim, if practical, until officers arrive, especially if the victim is alone and/or the scene is not safe.
- ☐ If it is obvious through the discussion, that the incident is a sensitive crime and venue is confirmed, dispatch may activate the SART (SART trained officer, advocate, SANE) immediately upon the approval of the shift commander.

Responding Officer Protocol:

- ☐ Re-evaluate safety for victim and any other person at potential risk
- ☐ Activate emergency medical services as needed
- ☐ Identify crime
- ☐ Establish jurisdiction
- ☐ Preserve evidence /secure scene.
- ☐ Determine if offender is known and possible locations.
- ☐ If Responding Officer is not SART trained, activate SART response (SART trained officer, advocate, SANE)
- ☐ If the victim is a juvenile contact the Department of Human Services
- ☐ Do not conduct a comprehensive interview of the victim; seek confirmation of the crime, venue and suspect information
- ☐ If SART trained officer has a delayed response, work with community based advocate to facilitate transportation to hospital
- ☐ Remain with the victim until SART trained officer arrives and the information is transferred to the investigating officer
- ☐ Promptly complete initial incident report

Sensitive Crime Team Member Protocol:

- ☐ Re-evaluate safety, activate Emergency Medical Services as needed
- ☐ Verify collaborative response has been initiated (Advocate, SANE)
- ☐ Ascertain what disclosure has already been made and to who (initial officer, friend)
- ☐ Provide victim with "victim rights" information
- ☐ Conduct initial victim statement – short interview to determine evidence collection as requested by the victim - community based advocate should be present during initial and comprehensive statements
- ☐ Follow-up with comprehensive/complete victim interview; generally will follow the SANE exam

- ☐ Coordinate audio/visual taped statements in accordance with local District Attorney's guidelines. Recorded statements are mandatory for juvenile offenders in custody and adult felons
- ☐ Determine need for search warrant
- ☐ Secure search warrant if needed
- ☐ Collect evidence from the scene(s)
- ☐ Conduct witness interview(s) – including potential disclosure witnesses
- ☐ Conduct suspect interview(s)
- ☐ Promptly and completely document case
- ☐ Conduct comprehensive review of case prior to sending case to the District Attorney – including reviewing all reports, evidence, review SANE documentation, statements, etc.
- ☐ Be available to provide case follow-up in consultation with prosecutor

Prosecution Response

The Role of Prosecution

The primary role of prosecution is to see that justice is accomplished.¹⁰ In cases of sexual assault, this means protecting the safety and rights of the victim and community by holding the offender accountable. To accomplish this goal, prosecutors must work in a coordinated and collaborative fashion with the victim, law enforcement, advocates, medical professionals and crime labs. Prosecutors are responsible for assessing reports of sexual assault to determine if enough evidence exists or could be obtained to file criminal charges. Prosecutors must also consider the ethical issues of whether or not to file criminal charges.

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

A victim centered and offender-focused response to the prosecution of sexual assault is predicated on the need to protect the victim's safety, privacy and well-being while holding offenders accountable. The goal of this approach is to decrease re-victimization by ensuring the survivor is treated with compassion and respect. The myths and misinformation surrounding the crime of sexual assault along with the tendency of the defense and jurors to focus on the victims' actions present unique challenges in the successful prosecution of the crime of sexual assault. Prosecutors are uniquely positioned to educate the community, jury by jury, about sexual assault dynamics and the tactics offenders use.

The need for prosecutors to support victim's rights cannot be overstated. In communities that lack victim advocates, the District Attorney's office may be the only resource available to educate victims about their rights as crime victims – rights to participation, information, confidentiality, financial restoration and restitution. This responsibility should not be overshadowed by competing demands and responsibilities.

Best Practices for Prosecution

Vertical Prosecution

Vertical prosecution is recommended in all sexual assault cases. Vertical prosecution of sexual assault cases means the same prosecutor, who has specialized training in sensitive crime issues, is assigned to the case from beginning to end. With vertical prosecution, victims are able to work with the same prosecutor and investigator from the time potential charges are first reviewed through the sentencing of the offender. Vertical prosecution has shown to improve conviction rates, reduce victim trauma, and provide more consistent, appropriate sentencing. It is therefore considered best practice.

Meeting with the Victim/Advocacy Presence

It is recommended that prosecutors meet with the victim prior to making a determination about whether or not to charge the offender. Meeting with the victim gives prosecutors a feel for the case they cannot get just reading reports. Meeting with the victim is also part of being victim centered and demonstrates to the victim that the prosecution is taking the case seriously.

¹⁰ *National Prosecution Standards* (1991) Second Edition National District Attorneys' Association.

If the prosecutor's office has a policy of meeting with the accused prior to charging or declination, the prosecutor should always meet with the victim prior to meeting with the defendant or defense attorney. It is necessary that a law enforcement witness be present during any interviews with the victim if any facts of the case will be discussed. Failure to have a witness present could result in the prosecutor becoming a witness. In addition, law enforcement personnel will memorialize for purposes that include mandated discovery any factual assertions by the victim that may need to be disclosed to the defense in a prosecution. Prosecutors should determine who will attend the meeting so that all individuals present will aid in the investigation and prosecution of the case and secure the presence of a witness who can testify at any hearing, and at trial concerning information disclosed by the victim during meetings.

Meetings with victims should include an advocate whenever possible. An advocate can provide emotional support to the victim and encourage the victim to share details that are important to reviewing and potentially charging the case.

Meetings with victims should include a community based advocate whenever possible. An advocate can provide emotional support to the victim and encourage the victim to share details that are important to reviewing and potentially charging the case. Advocates maintain a privilege not to disclose communication between the advocate and the client. Advocates, therefore, can not be used by the prosecutor as a witness to document the facts discussed by the victim during meetings.

Interviewing the victim provides an opportunity to review the case from the victim's perspective, explain the process, uncover details that may have been overlooked in the initial investigation, and determine what outcome the victim is seeking. Creating a safe environment for the victim to explain all relevant facts and her/his perspective regarding the sexual assault is essential to obtaining a full picture of the case. In order to do this, prosecutors should attempt to establish rapport by:

- Allowing adequate time for the interview
- Conducting the interview in a place where the victim feels safe and able to speak freely
- Ensuring that the defendant is not present or in the vicinity
- Adopting a "seeking to understand" perspective in questioning the victim
- Reviewing the victim's rights and explaining the victim's role in the prosecution process, including the rape shield law, preliminary hearing, plea, trial, potential settlement, etc
- Inquiring about any threats suspects have made toward victims, and respecting and supporting the victim's efforts to maintain their safety

A victim centered approach also means that prosecutors should support victims who choose not to cooperate in moving the case forward.

Collaboration with Law Enforcement

Victim disclosure about a sexual assault is not an event, it is a process. Prosecutors who meet with victims may learn new information that can be used to strengthen a case against an offender or that may weaken a case and that must be taken into account as part of a successful prosecution effort. For these reasons, prosecutors should review the investigator's report carefully to identify incomplete information or gaps in the evidence. It is equally important for the prosecutors to meet with the law enforcement

investigator as well as the victim to discuss the investigation prior to making a charging decision. Prosecutors should work closely with law enforcement to collect the evidence needed to substantiate a case for charging the offender. The sooner this process begins, the more likely that supporting evidence will be obtained.

Making Charging Decisions

Prosecutors play a pivotal role in the outcome of sexual assault complaints. They decide who will be charged, what charge will be filed, and whether plea negotiations will be considered. Prosecutors typically also recommend the offender's sentence. Although each of these decisions is important, none is more critical than the decision to prosecute or not to prosecute. Prosecutors have broad discretion in making charging decision.

The prosecutor has an ethical obligation to prosecute sexual assault cases that the prosecutor knows are supported by sufficient admissible evidence. That includes the obligation to assess how the entire case is likely to appear to a jury based on all reasonable inferences arising from the admissible evidence.

Prosecutors have an obligation to recognize the danger that in some cases they may focus too narrowly on what appear to be negative victim characteristics or conduct. Instead, an offender focused approach to the case is the best practice, carefully considering all offender conduct, behaviors and characteristics. This includes the frequent offender practice of targeting as victims persons who are vulnerable and who may not report the crime or may appear unsympathetic or not credible. Any history of sex offenses or other predatory or abusive conduct by the offender is highly relevant in all prosecutorial decision making.

Any history of sex offenses or other predatory or abusive conduct by the offender is highly relevant in all prosecutorial decision making.

Gathering the information needed to make a charging decision in a sexual assault can be a time consuming process. Prosecutors can support victims by:

- Making decisions in as timely a manner as possible
- Keeping victims apprised of the investigation and explaining delays
- Addressing the need for victim and community safety including whether or not the assailant is in custody during the pendency of the case
- When appropriate, explaining in accurate detail to the victim potential barriers to charging and/or obtaining a conviction

Notifying the Victim

A victim centered response to sexual assault takes into account the potentially lifelong impact that charging decisions have on victims. Victims of sexual assaults that are not charged are likely to feel re-traumatized because the pathway to achieve closure through the justice system has been closed for them.

It is the prosecutor's responsibility to notify a victim of sexual assault that a decision has been made not to charge the case. The notification should occur promptly and if possible, before the defendant is notified. This will prevent the victim from hearing the disposition from the defendant or other people first. The best practice is to make notification in person or by phone whenever possible. Notification should include an honest explanation of the reasons for the decision not to charge.

Preparing the Victim and Family

The victim centered approach recognizes that the victim is the center of the investigation. First, the victim is the person most affected by the crime. Second, in the

majority of sexual assaults, the only witness to the assault is the victim herself. For these reasons, the investigation starts with the victim whose cooperation is necessary throughout the process to ensure a successful prosecution of the suspect. Preparing family members or other loved ones the victim wants to have involved is equally critical to ensuring the victim's continued participation with prosecution.

When a decision is made to charge the offender, prosecutors must support victims and family members for the next steps in the justice process. Prosecutors can do this by:

- Understanding the victim's limits emotionally, cognitively and psychologically
- Educating victims about the steps in the process of the investigation and prosecution
- Educating victims about attendance at court proceedings
- Educating victims on the estimated timeline of the case
- Preparing victims for testimony and estimating the amount of time they will be spending on the stand
- Preparing victims and family members for disclosure of traumatic information in the trial (e.g. 911 tapes, photos, etc.)
- Informing victims about the presence of potential for media in the court room and rules regarding the limitations on publicity regarding the victim
- Cautioning victims about potential consequences of discussing the case with others outside the criminal justice system
- Preparing victims on how to respond to inquiries from defense attorneys, investigators and the media

Protecting Victim Safety

Ensuring the physical and emotional safety of victims during the prosecution phase is critical. In some cases, victims may be subject to intense pressure and harassment from the assailant and/or his friends and family members to recant. To support victim safety, prosecutors should:

- Advocate for bail conditions that consider the safety of the victim and the community.
- Ensure that no contact orders are written and not oral.
- Inform victims about the terms of bail conditions for the offender.
- Seek information about and educate victims about the potential risk of retaliation or harassment by the defendant and/or the defendant's family members and friends.
- Assist victims to develop a safety plan in the event of retaliation or harassment.
- Be mindful of the need to separate victims and defendants during any events that occur at the courthouse.

Interactions with Victims and Others in Presence of Victim

As much as with any other type of prosecution, it is critical that members of the prosecution team behave appropriately at all times when interacting with victims and their supporters and interacting with others in the presence of the victim or their supporters. This includes efforts to avoid either of the following:

- Joking or unnecessary familiarity with the defendant or defense counsel at any time. What may seem like friendly courthouse banter to a member of a prosecution team could be easily misunderstood and cause pain to a victim.
- Unnecessary references by any member of the prosecution team to unrelated personal or professional obligations that are interfering with the handling of the victim's case. Delays can be objectively explained honestly, but victims should not be subjected to complaints about prosecution workloads.

Initial Court Appearance

The initial appearance in court is a frightening experience for victims. In some cases, it may be the first time the victim and assailant meet face to face after the assault. Undoubtedly, it will be an affirmation that the offender is being held accountable for his actions. Because of this, it is not uncommon for offenders to attempt to intimidate the victim. A victim centered response recognizes that this is a critical emotional juncture for the victim, and that the outcome may influence her/his decision to move forward. To support victims prosecutors should:

- Discuss the advantages and disadvantages of victim attendance at court proceedings.
- Be informed about the facts of the case if stepping in for another prosecutor.
- Plan ahead about where the victim will be waiting prior to and during all court proceedings.
- Attempt to stagger when the victim and the assailant enter the courtroom.

The Preliminary Hearing

The prosecutor conducting the preliminary hearing must prepare the victim for what to expect in the courtroom. As part of that process, the prosecutor must be informed about the facts of the case in advance of the preliminary hearing. The prosecutor must be knowledgeable about rape shield laws and other applicable law that limit the defendant's ability to cross-examine a victim about past sexual behavior and credibility. Victims must also be informed that they may generally be asked about their use of alcohol and any other substances around the time of the assault that may have affected their ability to accurately perceive events, or recall them later. Victims should also be prepared for the fact that prosecutors must ask graphic questions to establish the elements of the offense and that defense attorneys are permitted under the law to cover the same topics in cross examination.

Prosecutors should avoid asking a victim to point to any part of her body or to use any kind of self demonstration during questioning because this risks subjecting the victim to further trauma. Instead, a drawing or diagram should be used where necessary.

The victim has the right, by statute (Statute 970.03 (4)), to request through the prosecutor that the court commissioner or judge close the preliminary hearing to the public to avoid further embarrassment or trauma. Defense counsel often do not oppose these motions. When the courtroom is closed, both the defendant and the victim are entitled to have a few support people in the courtroom.

Trial Preparation

A victim centered approach recognizes the need to fully prepare victims for the realities of the trial process. This means educating victims about the timeline, what is expected of them, what support the prosecution team can provide, and where they can go for additional help. Keeping victims informed about continuances and other delays is important. Involving victims in preparing the prosecution's case will empower them and improve their testimony. To prepare victims for trial, prosecutors should:

- Provide the victim with advance notice of pre-trial motions.
- Provide advance notice to the victim about trial dates.
- Ask the victim if there are dates that need to be avoided.
- Ensure that the victim is fully prepared and as comfortable as possible.
- Encourage the victim to report to police and keep a log of violations of no contact orders.

- Consider the use of an expert witness - Interview them in advance and prepare them for testimony.
- Issue timely subpoenas to victims and witnesses.
- Prepare the victim for all testimony and anticipated cross examination - Normalize their fear; let victims know they can ask to take a break and clarify questions that are confusing or that the victim does not understand.
- Explain that a witness is required to simply answer questions, and is not allowed to give narrative answers or raise new topics.
- Remind the victim that what she shares with family and friends is not privileged information and is subject to subpoena. Explain the right of privilege held by advocates and encourage the victim to use advocates for emotional support.
- Advise the victim of the potential for misuse of trial subpoenas as a strategy sometimes used to remove support from the victim during court proceedings.
- Explain to the victim that the courtroom is open during the trial.

Victims Who Choose Not To Participate in Prosecution

Victims assume tremendous risks during the prosecution phase of a sexual assault. For some victims, the stress of the trial process and the trauma they endure in re-living the assault can become overwhelming. Victims who make a decision to not participate in the prosecution may well not be “recanting.” They may be simply stating that from their view the potential risk of self harm has become greater than the risk of the defendant avoiding responsibility for the crime. Victims who are unable to participate in the prosecution of a case should be treated with the same dignity and respect as victims who are able to fully participate in the prosecution of a case.

Because recantation is used by victims in an attempt to halt criminal justice involvement, it should never be viewed, in and of itself, as an indication of a false report.

False Reporting and Victims Who “Recant”

A false allegation is a reported crime of sexual assault to a law enforcement agency that an investigation factually proves never occurred. Early estimates of false reports artificially exaggerated the percentage of false allegations, as high as 94%. They have since been largely refuted for faulty study methods and for equating recantation with false reporting. While there are no definitive studies, a recent report estimates the rate of false allegations between 2-8%.¹¹

A false allegation or false report should be distinguished from a mere mistake or faulty memory. Innocent mistakes or inaccuracies are part of any human activity. The intentional false allegation of a witness is and should be treated differently than a decision to recant or withdraw a complaint.

Victim Recantation is a retraction or withdrawal of a reported sexual assault. **Because recantation is used by victims to halt criminal justice involvement, it should never be viewed, in and of itself, as an indication of a false report.**¹² Many factors may influence a victim’s decision to recant:

¹¹ Lonsway, K, Archambault, J, Lisak, D. (2009) False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault. *The Voice: Helping Prosecutors Give Victims a Voice*. Published by the National Center for the Prosecution of Violence Against Women, 3:1. Available online at: http://www.ndaa.org/publications/newsletters/the_voice_vol_3_no_1_2009.pdf.

¹² False Allegations, Case Unfounding and Victim Recantations in the Context of Sexual Assault. Oregon Attorney General’s Sexual Assault Task Force. Available online at: http://www.oregonsatf.org/resources/docs/LE_Rec_Practice_False_Reports_Unfounding.pdf.

- Victims may not have initially realized the toll that a criminal investigation and trial would take on them mentally, emotionally, physically and financially, and later decide to end their involvement with the legal process.
- Victims may face tremendous pressure from family, friends and the community not to report or participate in prosecuting the offender. This is especially true when the assailant is known to the victim.
- Victims may withdraw their participation because they have grown tired of lengthy investigative delays, slow court dockets, or when they feel uninformed about, and uninvolved in, the decision making process.

A victim centered response necessitates that prosecutors and police investigate whether a recantation is a result of a system failure, witness tampering or other factors that are outside the control of investigators or responders. While recantations present challenges for the criminal justice system, they should not deter prosecutors from considering the viability of the case. In the event that a recantation is the result of duress the victim experienced, prosecutors may be able to successfully educate the judge and jury on the causes of the recantation.

Jury Selection

Jury selection, as in any other criminal case, is critical to the outcome of a sexual assault trial. Potential jurors bring with them their own personal experiences and beliefs about sexual assault and a host of myths and misperceptions. Some jurors may have personally experienced a sexual assault. Some may know a family member or loved one who has been the victim of sexual abuse or assault. Others may know someone who has been accused. Jurors are also exposed to dramatized and/or wholly fictional accounts of sexual assaults in various media which often bear no relationship to reality. Identifying the potential impact of juror's experiences and beliefs about sexual assault is essential in the jury selection process. Strategies to strengthen the jury selection process include:

- Collect useful questions from other prosecutors who have prosecuted sexual assaults.
- Consider asking another prosecutor to participate in jury selection, especially someone who is experienced in sexual assault jury trials.
- Consider requesting the court to send out a questionnaire to prospective jurors in advance to determine whether they know anyone who has been accused of a sexual assault, anyone who is a victim, and issues related to the case. Judges frequently agree to a questionnaire.

Victim Sequestration and Courthouse Management

A victim centered response places the highest priority on protecting the victim's personal and emotional safety. For this reason courthouse management and the need to keep victims separate from defendants should be a team responsibility. Everyone on the prosecution team should support the following:

- Make sure that the victim has a support person who will be at their side during court appearances.
- Plan ahead about where the victim will be during breaks and lunches.
- Plan ahead about what the victim can do during the waiting period while the jury is making a decision.
- Encourage the victim to enlist support from community advocates or victim witness personnel.
- Caution the victim to be careful about what she/he shares with others before, during and after the trial, with special emphasis on not speaking with anyone in a

- public place, such as a courthouse restroom, or any other place where potential jury members or others may be present.
- Discuss with the victim whether or not she/he wants to be present during closing arguments.
 - Prepare the victim for the various possible outcomes of the trial.

Settlement Discussions

A victim centered response prioritizes the participation of victims in deciding the state's recommendations for potential outcomes. A victim centered response includes explaining the rationale for seeking a settlement and asking victims for their feedback when settlement options are being considered. Minimally, prosecutors should:

- Educate the victim about the impact that defendant's decision to plead other than not guilty would have on the process and the potential outcome.
- Discuss settlement options with the victim and solicit his/her feedback about what the prosecution is seeking.
- Keep the victim informed about what settlement(s) is/are being offered to the defendant before any settlement offer(s) are made.
- Advocate including a sex offender registry designation in a settlement agreement when appropriate.
- Educate the victim on the process of plea negotiations and sentencing options available to Wisconsin judges.

A settlement offer should never be presented to a defendant without first attempting to contact the victim.

Sentencing

Sentencing can be an especially traumatic experience for victims and their family members. The opportunity to face the assailant and to share publicly the impact that the sexual assault has had on them can be both liberating and intimidating. To prepare victims for the sentencing phase of a trial, prosecutors should:

- Ask the victim in advance if she/he wants to be present in the courtroom and honor her/his decision not to be present.
- Prepare the victim in advance about how to address the court.
- Prepare the victim for any evidence or argument by the prosecution or defense that may be shocking or disturbing.
- Offer to help the victim create a victim impact statement.
- Ensure that family members and friends are on hand to support the victim.
- Insist that a no contact is included in sentencing, if desired by the victim.

Outcomes

Regardless of the outcome of a sexual assault case, prosecutors who want to sharpen their skills are wise to convene a team meeting to review the case and discuss what went well and what could be improved in the future. Including expert witnesses and advocates in these discussions will broaden the level of feedback received. Surveying jurors after trial proceedings have concluded will provide additional insight about how to improve the prosecution's presentation of sexual assault cases in the future.

Public Statements Regarding Declination of Sexual Assault Charges

It is not uncommon for prosecutors to be asked by media outlets why they are declining to file criminal charges on a referred sexual assault case, or why they are filing charges at a level different from that referred by law enforcement (for example, fourth degree

sexual assault instead of third degree sexual assault). In addition to considering the ethical prohibition against “convicting in the media” an accused person, prosecutors who respond to such inquiries should also avoid making any public statement that has the effect of disparaging or criticizing the victim. For example, a public statement suggesting that the victim’s conduct would have made her an unappealing or untrustworthy witness would be inappropriate, and traumatizing, not only for the particular victim referred to but to other victims of sexual assault. Remember that sources cannot control the manner in which their comments are quoted by media. Where public comment is necessary, consider providing a very carefully worded written statement that has been reviewed by the victim, if possible.

Sexual Assault Nurse Examiner (SANE) Response

The Role of SANE

The role of the SANE in the response to sexual assault is to provide for the immediate medical care of patients/victims, to collect and document forensic evidence, and to provide expert testimony in the cases that go to trial. The goal in the response to sexual assault is to ensure that compassionate and sensitive services and care are provided in a non-judgmental manner.

Best Practice for SANE

The guideline that is included at the end of this chapter was developed by the Wisconsin Chapter of the International Association of Forensic Nurses and is recommended for the care of the adolescent and adult when there is a history or concern of sexual abuse or assault. The guideline is not intended to include all the triage issues, medical evaluations, tests, and follow-up that may be necessary for appropriate care for an individual patient. Not all the steps outlined in this guideline will be appropriate for every patient. The purpose of this guideline is to provide direction for the SANE in the care of the adolescent or adult sexual assault patient.

Prioritizing Victim Well-Being

The physical and psychological well-being of the sexual assault patient should always be given precedence over forensic needs. In some cases, the investigation may have to be delayed if law enforcement identifies that strangulation or a loss of consciousness occurred during the assault or if the victim complains of active bleeding or is pregnant or has abdominal pain. The SANE examination of the victim of sexual assault may assist with the investigation and prosecution of the case but is foremost intended to assist the survivor of sexual assault in her/his recovery. The victim of sexual assault needs prophylaxis to prevent sexually transmitted infection and pregnancy. The victim should always be referred to SANE for assessment and care.

The SANE examination of the victim of sexual assault may assist with the investigation and prosecution of the case but is foremost intended to assist the survivor of sexual assault in her/his recovery.

Ensuring Competency in Forensic Evaluation

Assessment, examination and evidence collection should only be done by those healthcare providers trained as SANE. The examination and evidence collection of the victim which follows a sexual assault is complicated and time consuming. If done by healthcare providers who are poorly trained in the evaluation and/or who have a limited understanding of the many needs and concerns of sexual assault victims, it can be as intrusive, invasive and as traumatizing as the assault.

The collection of evidence and the documentation of injury cannot be done in retrospect. If the evidence collection is done improperly or the chain of custody not properly maintained, the result may be a thwarted investigation and unsatisfactory prosecution. Expertise is also important to establish credibility when testifying in a court of law.

Patient Consent

Best practice guidelines inform us that **the patient must consent** to a SANE examination and evidence collection. *Consent can be given or withdrawn for any portion of the exam at any time.*

Victim Reporting of Sexual Assaults

Best practice guidelines indicate that an adult victim of sexual assault should be offered the following reporting options:

- Report the assault to law enforcement and having evidence collected.
- Choose NOT to report and NOT having evidence collected.
- Choose to have evidence collected even though the victim is undecided or choose to remain anonymous about reporting. In these cases, collaboration between law enforcement and the SANE is essential. A protocol that includes how this process will take place and what information is to be given to the patient must be developed. Confidentiality of the victim is important as well as the maintenance of the chain of custody (evidence).

The advantage of collecting evidence without a report is to facilitate reporting and allow for early evidence collection without putting pressure on the victim to make a decision about reporting before she/he is able to do so. *Whatever decision is made by the victim should be supported by the SANE.* The victim who decides not to report or who is undecided should be assessed and treated in the same manner as the victim who is reporting.

Community Based Advocacy

Advocacy is included in the healthcare response. SANE must be objective in order to provide the best treatment and collect the most accurate information. The emotional needs of victims are best cared for by the rape crisis advocate. The SANE should contact advocacy when a victim presents for evaluation, and the SANE and advocate together should respond as a team. Community based advocates can provide support to a victim from the beginning, throughout the investigative and prosecution process. Many cases will not be prosecuted and the victim will need assistance from advocacy if the case is not taken to court.

Timeliness of Evidence Collection

Evidence can be compromised or lost if not collected within a timely manner. Evidence collection is usually done within 96 hours of an assault but may be done beyond that time. The documentation of injury can be compelling evidence and injury can persist beyond 96 hours. However, injury may not be visible for hours or days. Patients/victims seen within hours of a sexual assault may have injury that cannot be seen and documented during an initial examination and should be instructed to return if injury becomes apparent later.

Release of Medical Information

Medical information, including evidence collected during a medical forensic examination, is protected under the Health Insurance Portability & Accountability Act (HIPPA). It can only be released to law enforcement or accessed for legal proceedings with the adult victim's written consent or when ordered by a court with jurisdiction in the matter. At the time of the adult victim examination, discussion of the need for the completion of a release of medical records form to facilitate the legal investigation and subsequent action should be done.

Prophylaxis Treatment

Prophylaxis for the prevention of sexually transmitted infection and emergency contraception should be offered and provided to all patients following current standards. The Centers for Disease Control and Prevention (CDC) Sexually Transmitted Disease Treatment Guidelines are an excellent resource for appropriate treatment. **Wisconsin Statute 50.375 mandates that a hospital that provides emergency services must provide emergency contraception to victims of sexual assault.**

Mandatory Reporting

There is mandatory reporting of suspected child victims of physical and sexual assault and neglect. There is no mandatory reporting for adult victims (18 years and older) unless the adult victim cannot make their own healthcare decisions i.e., those patients who have a legal guardian who makes decisions for them. The other exception to this law is in the case of injuries caused by a weapon or incidents involving life-threatening assault. These incidents must be reported to law enforcement agencies regardless of reporting the sexual assault.

Financial Responsibility

Best practice guidelines are very clear in their position on treating uninsured and underinsured sexual assault victims: **ability to pay should never be an obstacle to obtaining a medical forensic examination!** It is the responsibility of the SANE to provide the victim with accurate information about Crime Victim's Compensation (CVC) and Sexual Assault Forensic Exam (SAFE) funds—including how and where to apply for these funds.

Crime Victim Compensation (CVC) Program

If a victim is reporting the crime to the police, she/he may be eligible for Crime Victim Compensation (CVC) Funds. These funds can be used to pay for the medical costs of sexual assault exams (if the patient does not have insurance or medical assistance), clothing taken for evidence, et cetera. The requirements that applicants need to meet, in order to receive these funds are included in the brochure "A Measure of Justice – Financial Help for Victims of Crime" produced by the CVC Program and available by calling 1-800-446-6564.

Sexual Assault Forensic Exam (SAFE) Funds

The SAFE funds assist victims who have had a sexual assault forensic exam without requiring them to:

- Report to law enforcement
- Participate in the criminal justice process
- Have their own insurance company billed for the exam

It should be noted that the funds available through the SAFE fund are only intended to cover the cost of forensic exams.

Examination of the Suspect of Sexual Assault

The SANE may be asked to conduct a suspect exam as a part of the criminal investigation. Examination and evidence collection from the suspect of sexual assault is as important as the examination and evidence collection from the victim. Important biological or trace evidence and/or physical findings may be found which will link the suspect to the crime or provide useful corroborative information to the investigation of

the crime and to its successful prosecution. Neutrality, objectivity and patient confidentiality is critical for both the victim and suspect exams.

Although the possibility of cross contamination is virtually impossible if proper procedures are followed, it is prudent to meticulously document the measures taken to prevent any cross contamination such as the changing of gloves and clothes, the washing of hands and/or the cleaning of the room between the exams.

SANE Training

The Wisconsin Coalition Against Sexual Assault (WCASA) SANE Faculty provide training to healthcare providers in the evaluation and treatment of the adult and child victims of sexual assault. For additional information about this training, contact WCASA at 608-257-1516. The content of these trainings adheres to the standards of such established by the International Association of Forensic Nurses.

Certification as a SANE-A and as a SANE-P is obtained through the International Association of Forensic Nurses. Certification as a SANE-A demonstrates expertise in the evaluation of the adult victim of sexual assault and certification as a SANE-P is considered competency in the evaluation of the child victim of sexual abuse.

Wisconsin Chapter of the International Association of Forensic Nurses

The professional organization that represents forensic nursing is the International Association of Forensic Nurses (IAFN). SANE is the largest subspecialty of forensic nursing. Information about the Wisconsin chapter of the IAFN and its members can be obtained at the website www.wi-iafn.org.

PREA & The SART Response

Overview of the Prison Rape Elimination Act – (PREA)

PREA – the Prison Rape Elimination Act (PL 108-79)¹³ was signed into law September 2003 to address the problem of sexual assault of people in the custody of U.S. correctional agencies.

Major provisions of the act include:

- Development of standards for detection, prevention, reduction and punishment of prison rape
- Collection and dissemination of information on the incidence of prison rape
- Award of grant funds to help state and local governments implement the purposes of the Act

The Act applies to all correctional and detention facilities, including prisons, jails, juvenile facilities, military and Indian country facilities and Immigration and Customs Enforcement (ICE) facilities.

Sexual Assault in Detention

Sexual assault behind bars is a widespread human rights crisis in prisons and jails across the U.S. According to the best available research, **20 percent of inmates in men's prisons** are sexually assaulted at some point during their incarceration.¹⁴ The rate for women's facilities varies dramatically from one prison to another, with **one in four inmates being victimized at the worst institutions**.¹⁵ In a 2007 survey of prisoners across the country, the Bureau of Justice Statistics (BJS) found that **4.5 percent (or 60,500)** of the more than 1.3 million inmates held in federal and state prisons had been sexually assaulted in the previous year alone.¹⁶ A BJS survey in county jails was just as troubling; nearly **25,000 jail detainees reported having been sexually assaulted in the past six months**.¹⁷ Unfortunately, the data provided by the BJS still represents only a fraction of the true number of detainees who are victimized, especially of those held in county jails.¹⁸ **The number of admissions to local jails over the course of a year is approximately 17 times higher than the nation's jail population on any given day.** The BJS surveyors were able to cover only a very small proportion of jail detainees over an entire year.¹⁹ Sexual assault in prison mirrors sexual assault in outside community. For example, inmates who are gay, transgender, young, mentally ill or incarcerated for the first time and for non-violent offenses tend to be victimized.²⁰ Survivors of sexual assault behind bars experience the same emotional pain as other rape victims. While there are services available to survivors in detention, incarcerated survivors have less access to supportive community resources such as confidential counseling provided by community based advocacy agencies. The absence of confidential counseling in the aftermath of an assault causes many survivors to

¹³ Prison Rape Elimination Act (PL 108-79) (2003)

¹⁴ Cindy Struckman-Johnson, Sexual Coercion Reported by Men and Women in Prison (1966)

¹⁵ Cindy Struckman-Johnson and David Struckman-Johnson, Sexual Coercion Reported by Women in Three Midwestern Prisons (2002)

¹⁶ Bureau of Justice Statistics, Sexual Victimization in State and Federal Prisons Reported by Inmates (2007)

¹⁷ Bureau of Justice Statistics, Sexual Victimization in Local Jails as Reported by Inmates (2007)

¹⁸ Bureau of Justice Statistics, Jail Inmates at Mid-Year 2007 (2008)

¹⁹ Just Detention International Fact Sheet, LGBTQ Detainees Chief Targets for Sexual Assault Detention (2009)

²⁰ Just Detention International Fact sheet, Mental Health Consequences of Sexual Assault in Detention (2009)

develop serious long-term problems, like Post-Traumatic Stress Disorder (PTSD), depression and alcohol and other drug addictions. ²¹Moreover, the high rates of HIV and other sexually transmitted diseases in detention place incarcerated survivors at great risk for infection. ²²Once released, and 95 percent of inmates do return home, survivors bring their emotional trauma and medical conditions back to their communities.

Sexual Assault in Wisconsin Prisons

The State of Wisconsin has 36 correctional facilities and three custody levels (see appendix for map of Wisconsin Correctional Facilities). There are 16 minimum security correctional centers, 16 medium security adult institutions and 4 maximum security adult correctional institutions. As of 2010, approximately 23,000 people are incarcerated in state of Wisconsin Correctional Facilities. Using the Bureau of Justice Statistics (BJS) formula of 4.5% of inmates being sexually assaulted over a 12 month period – we can reasonably assume that of the 23,000 inmates housed in Wisconsin approximately 1,035 will experience some form of sexual assault every year. In 2009, there were 33 reported cases of inmate on inmate sexual assault, 36 incidents of inmate on inmate abusive sexual contact or 4th degree sexual assault and 45 cases of staff sexual misconduct. The number of cases of staff sexual misconduct encompasses all forms of sexual contact between a staff member and an inmate. All staff on inmate sexual assault constitutes a felony crime.

Sexual assault in prison is a very real and disturbing issue that needs to be addressed not only by the corrections community, but by the community as a whole to insure the safety and well-being of all inmates. While some victim inmates do report their assault to correction officials, feedback from inmate survivor focus groups reveal that other survivors choose to report their assault to their probation and parole agents once they've been released from prison. Cooperation and collaboration between correctional facility personnel, probation and parole and local SART teams is essential in addressing sexual assault in detention. The following are quotes from self-disclosed inmate survivors of sexual assault in Wisconsin:

- *"I thought it (sexual assault) was part of it – I was always scared – always watching."*
- Survivor of staff assault
- *"The staff knew – they just ignored what was happening or sometimes they joined in."*
- Survivor of inmate assault
- *"I was afraid to tell anyone – I knew it would only get worse – so, I just let them (staff) do whatever they wanted."*
- Survivor of staff assault

Prison Rape Elimination Act (PREA) and the Wisconsin Department of Corrections

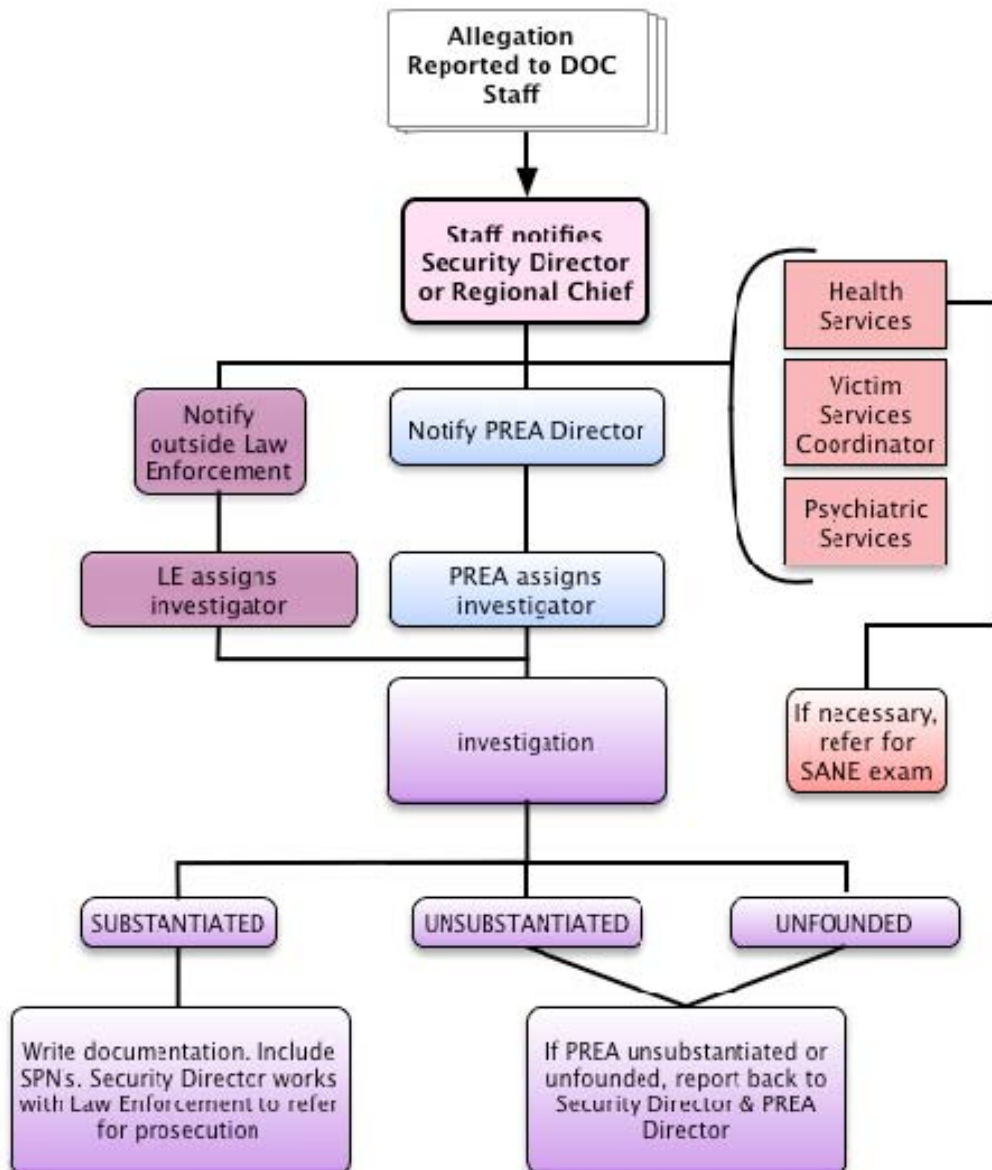
In response to the PREA, the Wisconsin Department of Corrections (DOC) has instituted a number of measures to inform inmates about the existence of the PREA, provide ways for inmates to report a sexual assault and to thoroughly and completely investigate reported sexual assaults in institutions. Education about PREA is given to an inmate during orientation at the intake facility and again anytime they are transferred to a new facility. Inmates are given information about the PREA reporting line (toll-free number) they can access if they choose to bypass institution staff. All institution staff is mandated to report a sexual assault. Wisconsin Department of Corrections has 20 trained PREA Investigators who are assigned to conduct internal investigations of sexual assault and

²¹ Just Detention International Fact Sheet, Violence in Detention and Public Health (2009)

²² Just Detention International Fact Sheet, Mental Health Consequences of Sexual Assault in Detention (2009)

staff sexual misconduct. These Investigators work closely with law enforcement agencies that are called upon to conduct the criminal investigations of sexual offenses within correctional facilities. The following is a flowchart explaining the PREA response to inmate on inmate sexual assault.

State of Wisconsin Division of Adult Institutions PREA Flow Chart



Our thanks to the Dodge Co. Sheriff's Department for assistance in creating this document.

Inmate on Inmate Best Practices

Within the prison system, the Security Director is responsible for assessing the initial reports and instituting a fact finding response. The Security Director can ensure interviews of both parties as well as other potential witnesses. Consensual sex between inmates is not a PREA issue, but it is against the administrative rules of the institution and constitutes a rule violation. A sex offender focused understanding of sexual assault recognizes that sex offenders are practiced liars and often have a history of manipulation. Therefore, it is imperative for the Security Director, working in concert with investigators to determine if the act was consensual.

Security Director or Designated Shift Supervisor

- Initial report made via inmate, 3rd party or staff member
- Security Director or designee takes initial report and does preliminary review
- Determine if victim inmate is in danger
- Determine if there are medical needs that should be addressed by medical staff
- Separate inmates – place inmate/offender in TLU until the investigation can determine guilt or innocence
- Secure the crime scene
- Preserve evidence
- Contact local Law Enforcement
- Arrange for SANE exam – Department of Corrections personnel must remain in close proximity to victim/inmate during SANE exam
- Contact PREA Director or designee to assign investigative resources
- Notify victim services coordinator
- When case is referred to Prosecutor, consult with Prosecutor's office as needed to provide information about the prison environment

PREA Director

- Assign PREA Investigator
- Provide guidance and direction in PREA cases when necessary
- Serve as a liaison with local Law Enforcement and Prosecution

PREA Investigator

- Receive initial report from Security Director or designee
- Contact local Law Enforcement to coordinate investigation and to share information
- Gather evidence
- Document and review evidence
- Conduct interviews with victim, offender and other potential witnesses (Currently, Community Based Advocates are not allowed to sit in on interviews with PREA Investigator and victim/inmate)
- Coordinate interviews with local Law Enforcement
- Provide any follow-up requested by Prosecutor, PREA Director, Security Director or designee
- Confer with Security Director or designee to discuss and agree on findings prior to closing case
- Meet and/or confer with Prosecutor prior to charging decision being made

Victim Services Coordinator

- Receive report from Security Director or Designee
- Meet with victim/Inmate to provide support and information about available services

- Coordinate and provide after care services as necessary
- Notify local Community Based Advocacy Program
- Coordinate with Victim Witness if case is charged
- Coordinate with Community Based Advocate to provide court support if necessary

Community Based Advocacy Program

- Coordinate provision of advocacy services with Victim Services Coordinator
- Provide court support if necessary

Prosecution

- Meet and/or confer with victim/inmate prior to charging
- If not charging, confer or meet with victim/inmate
- Work with victim witness to prepare victim/inmate for court proceedings
- Meet and /or confer with victim inmate before any plea agreement is offered or accepted

Victim Witness

- Coordinate with Victim Services Coordinator and Community Based Advocate if case is charged
- Work with Prosecutor to prepare victim/inmate for court proceedings

SANE

- Provide SANE exam as outlined in SANE protocol
- Communicate with local Law Enforcement and DOC personnel to provide victim centered care while insuring safety requirements are met
- Turn evidence over to local Law Enforcement

Law Enforcement

- Meet with Security Director or designated staff to get details of the case
- Receive any evidence from DOC staff
- Process crime scene with DOC staff
- Meet with victim/inmate for a brief initial statement
- Present at hospital during SANE exam to receive evidence
- Conduct parallel interviews and investigation with PREA Investigator
- Meet/confer with Security Director and PREA Investigator prior to submitting a referral to the Prosecutor
- Provide written report of findings to Security Director and PREA Investigator
- Provide follow up requested by the Prosecutor
- Meet and /or confers with Prosecutor and PREA Investigator prior charging decision

Staff on Inmate Best Practices

Security Director or Designated Shift Supervisor

- Initial report is made via inmate, 3rd party, staff member or hotline – the report can be verbal or written
- Security Director or designee takes report, gathers additional information and contacts PREA Director
- Determine and secure the crime scene
- Arrange transportation for SANE exam or medical treatment if appropriate

- Contact local law enforcement if initial information and evidence warrant outside investigation
- Contact Warden to determine work status of staff
- Victim remains in general population unless there is a safety concern. If Security Director or designee determines there is a safety concern the victim will be moved
- Contact Victim Services Coordinator

PREA Director

- Assign PREA Investigator
- Provide guidance and direction in PREA cases when necessary
- Serve as a liaison with local Law Enforcement and Prosecution

PREA Investigator

- Receive report from Security Director
- Contact local Law Enforcement to coordinate investigation and to share information
- PREA Investigator and local Law Enforcement should run parallel coordinated investigations
- Conduct interviews with victim/offender and other potential witnesses
- Can compel a statement from staff member but, not share it with Law Enforcement
- Provide any follow-up requested by Prosecutor, Security Director or designee
- Meet/confer with Prosecutor prior to charging decision being made

Victim Services Coordinator

- Receive report from Security Director or designee
- Meet with victim/inmate to provide support and information about available services
- Coordinate and provides after care services as necessary
- Notify local Community Based Advocacy program
- Coordinate with Victim Witness if case is charged
- Coordinate with Community Based Advocate to provide court support if necessary

Community Based Advocacy Program

- Coordinate provision of advocacy services with Victim Services Coordinator
- Provide court support if necessary

Prosecution

- Meet / confer with victim/inmate prior to charging
- If not charging, confer or meet with victim/inmate
- Work with victim witness to prepare victim/inmate for court proceedings
- Meet and/or confer with victim/inmate before any plea agreement is offered or accepted

Victim Witness

- Coordinate with Victim Services Coordinator and Community Based Advocate if case is charged
- Work with Prosecutor to prepare victim/inmate for court proceeding

SANE

- Provide SANE exam as outlined in SANE protocol
- Communicate with local Law Enforcement and DOC personnel to provide victim centered care while insuring safety requirements are met
- Turn evidence over to local Law Enforcement

Law Enforcement

- Meet with Security Director or designee to get details of the case
- Receive any evidence from DOC staff
- Process crime scene with DOC staff
- Meet with victim/inmate for a brief initial statement
- Conduct interview with staff/suspect without PREA Investigator
- Present at hospital during SANE exam to receive evidence
- Conduct parallel investigation with PREA Investigator
- Meet / confer with Security Director and PREA Investigator prior to submitting a referral to the Prosecutor
- Provides written report of findings to Security Director and PREA Investigator
- Provides any requested follow up to Prosecutor
- Meet and /or confers with Prosecutor and PREA Investigator prior to Prosecutor making charging decision

If criminal charges are not filed, staff may be in violation of department work rules and subject to the disciplinary process. Staff found to have been involved in sexual misconduct will be terminated. If staff is found not guilty of a work rule violation, staff will return to work and the inmate will be held accountable for making false allegations. If the allegations are “unsubstantiated”, the staff member can return to work.

PREA in Halfway Houses and Transitional Living Programs

Halfway houses are contracted by the Department of Corrections (DOC) to provide residential placement to offenders under DOC supervision and are staffed 24 hours a day 7 days a week. Offenders placed in halfway houses are put on a schedule and can come and go for all assigned activities. Offenders housed in halfway houses are assigned to a Probation and Parole Agent.

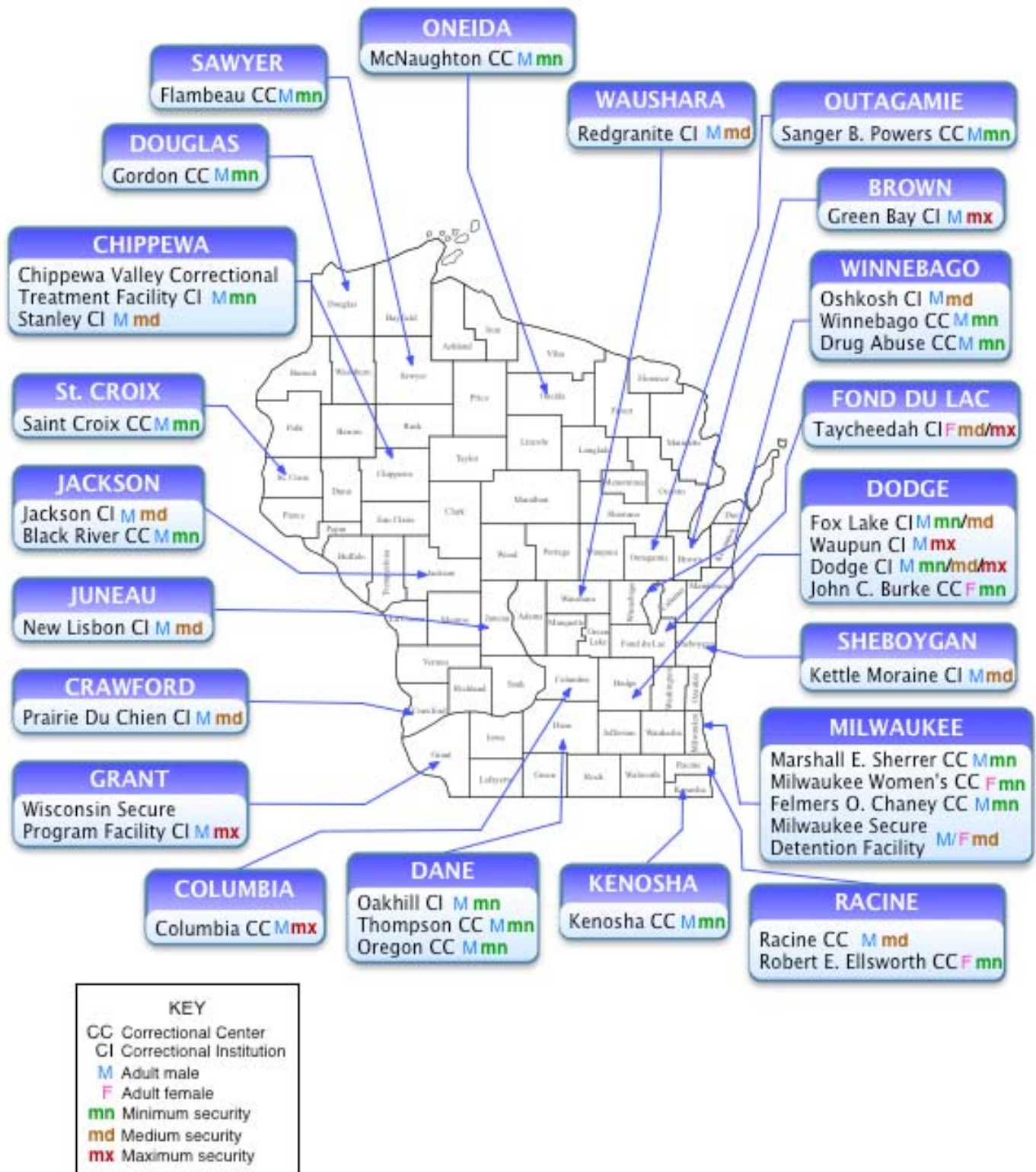
Assault within a Halfway House (HWH)

A victim may report the incident to their probation and parole agent, HWH staff member, Law Enforcement or any third party including Community Based Advocacy programs.

- HWH staff should report the assault to the Contract Administrator for Community Corrections.
- Community Corrections staff should report the assault to both local Law Enforcement and the PREA Director or designee.
- Upon receipt of report, offender who is alleged to have committed the assault is placed in custody at the county jail.
- Law Enforcement begins an investigation of the crime outlined in “SART Best Practices”.
- HWH is responsible for ensuring an administrative investigation is completed and reporting the findings to DOC.

Aside from the above, a sexual assault occurring in a HWH is treated the same as a sexual assault occurring in the community.

State of Wisconsin Adult Correctional Facilities



Cultural Competency

Role of Cultural Competency

Sexual assault affects every culture and race. As our state becomes more diverse so do the needs of sexual assault survivors. This presents additional challenges for sexual assault response teams. SART members all serve critical functions in supporting a victim from the trauma through prosecution and healing. In order to be culturally competent SART members must be aware of the relationship of culture and its impact on sexual assault victims.²³

A victim centered response to sexual assault recognizes that underserved populations – women of color, low-income people, undocumented women, persons of disability and LGBT populations are disproportionately impacted by sexual assault. Because of this, local communities must be steadfast in their commitment to increasing their multicultural competency. Adopting the following principles of multicultural competence will move communities closer to being culturally competent in their response to sexual assault.

- **Multicultural competence includes multiple dimensions of diversity:** Culture should be defined broadly and extend well beyond race and ethnicity to include sensitivity to gender, age, disability, language, literacy, sexual orientation, and any set of beliefs that guide an individual.
- **Multicultural competence involves experience, knowledge, skills and commitment:** SART responders should place a strong emphasis on including women, persons of color and persons of disability. Member organizations should provide for ongoing staff education on cultural competency to increase their knowledge and skills.
- **Multicultural competence applies to individuals and organizations:** Commitment to cultural competence should be integrated into policies and procedures, written materials, and evaluation. Services should be adapted to use the language and vernacular of people of color. Assistance should be provided to victims with literacy difficulties and/or limited English proficiency. Responders should strictly enforce zero tolerance policies for harassment, discrimination, racist language or homophobia.
- **Multicultural competence is an on-going process of growth:** Professional development should address the need for ongoing growth. SART responders should continually evaluate the cultural needs of underserved victims by conducting regular focus groups and collecting victim feedback information. Underserved victims should be highly active in the development, implementation and evaluation of local services.

Best Practice in SART Cultural Competency

Cultural competency is a goal for which to strive; becoming culturally competent is an ongoing process. Although best practice in cultural competency for SARTs is an emerging field of knowledge, women of color advocates have identified a number of recommendations about how sexual assault response teams can increase their cultural competency and ensure equity in access to victim centered services for *all* victims of sexual assault.

²³ Zarate, L. Suggestions for Upgrading Cultural Competency Skills of Sexual Assault Response Teams. Position Paper by Arte Sana. (2001).

Inclusive Representation

SART providers should strive to reflect the demographics of the local community – particularly underserved populations. A SART should not only include members groups that will come into contact with a victim, but also make sure that those individuals represent the communities being served. It is imperative to ensure that women of color – the most likely victims of a sexual assault – have a voice in shaping local response to sexual assault.

Strategies that strengthen representation include:

- Inviting women of color advocates to join the local SART
- Conducting focus groups and listening sessions with underserved populations – women of color, low-income, undocumented women, persons of disability and LGBT people
- Creating an environment that encourages underserved people to become victim advocates

A SART should not only include members of groups that will come into contact with a victim, but also make sure that those individuals represent the communities being served.

Reducing Access Barriers

Diverse populations underutilize services. There are many reasons for this, including fear of formal systems and/or retribution, lack of trust due to past experiences, concerns about not being understood or respected, concerns about accessibility, lack of familiarity with available services and discomfort from inadvertent and inappropriate comments or approaches from providers. SART members should acknowledge these barriers when working with underserved survivors.

Addressing Language

SART disciplines should ensure that victims have access to bilingual services – either through bilingual staff or through interpreters. Remember to consider country of origin, acculturation level, and dialect issues. SART disciplines should also ensure they have the ability to provide services to the Deaf community and those who are hard of hearing – either through staff or through interpreters.

Cultural Competency by Discipline:

Advocacy Response

Diverse clients are often more comfortable with providers from similar backgrounds. Unfortunately, diverse service providers are often in short supply. Community-based advocacy organizations should work diligently to create an environment that welcomes and encourages women of color to become sexual assault advocates. They must also create an environment that makes it safe for women of color to talk about issues of race and racism within the agency and the community. The Wisconsin Coalition Against Sexual Assault (WCASA) provides consultation and technical assistance to local sexual assault service providers about how to increase representation and leadership among women of color advocates through its Women of Color Initiative.

Law Enforcement Response

It is crucial that law enforcement be knowledgeable about and committed to reducing real and perceived fears within communities of color about institutional racism and in the LGBT community about institutional homophobia. This means being aware of how ongoing critical incidents and suspicions of abuse of authority by law enforcement may

impact on how the underserved peoples perceive them. It is equally critical for law enforcement to separate itself from ICE. The perception of many undocumented survivors of crime is that the police and ICE are one in the same.

Prosecution Response

Prosecutors should acknowledge the fears that underserved victims bring with them into the prosecution process. These may include fears about judgment, blaming, discrimination, harassment and retribution. Some of these fears may be perceived, and some may be based on victim's previous experiences. Regardless, *the fear is a genuine and powerful experience for the victim*. Prosecutors should not downplay or discount fears that women of color, undocumented women or LGBT victims share. A culturally competent approach includes: (a) asking underserved victims about their fears; (b) acknowledging that the fears are real for the victim; and (c) problem solving with the victim about what prosecution can do and not do to reduce their fear.

Sexual Assault Nurse Examiner (SANE) Response

The examination which is done after a sexual assault may be especially traumatizing for some survivors who have never had a gynecological exam, as is the case for many rural immigrants, and survivors on fixed incomes who cannot afford preventive care.

Special attention should be taken to address the needs of secondary survivors (parents, boyfriends, husbands, etc.) as they may directly impact the survivor's healing. Language is key for establishing safety and trust, both for primary as well as secondary survivors.

For those survivors and family members who place a high importance on virginity, one way to approach this issue is to remind parents, boyfriends, and family members that virginity cannot be taken, it can only be given. No matter the physical condition of the survivor, she is still spiritually and psychologically a virgin, for this was not a sexual act but an act of violence.

Summary of Best Practices

A best practice is defined as a technique or methodology that experience and research has proven to lead to a desired result.²⁴ Best practices rely on strategies and approaches that have been documented, accessible, repeatable and efficient. By implication, best practice means that through trial and error, a guideline has been developed which is deemed to be most likely successful if followed faithfully.

The Wisconsin Statewide Protocol Development Team has identified the following best practice approaches for each of the four major disciplines who participate in a Sexual Assault Response Team. While the needs and resources of each community vary, the table below presents a snapshot of what each discipline should aspire to in developing a victim- centered response.

Recommended Best Practices	
Advocacy	<ul style="list-style-type: none"> ■ 24 hr. hotline staffed with a live voice ■ Multi-lingual and multicultural availability, including American Sign Language, TTY, etc ■ Accessibility based on victim need ■ 24 hr. in person advocacy ■ Two advocates available, one may be system based ■ Most independent advocate available ■ Victim centered ■ Advocate called at same time as SANE nurse ■ Advocate present in all places victim requests ■ Advocate facilitates transportation needs
Law Enforcement	<ul style="list-style-type: none"> ■ Responding Officer (non-SART trained) shall limit the scope of their investigation to: critical needs, safety, scene preservation, confirmation of crime, venue and suspect apprehension ■ Evidence preservation advisories provided to the victim ■ Give victim choice of exam or interview and in what order ■ Advocate called immediately by Responding Officer ■ Advocate present in all places victim requests ■ Be available to review case /do more investigation in coordination with reviewing attorney
Prosecution	<ul style="list-style-type: none"> ■ Meet with victim and advocate (if victim requests) before charging decision is made ■ Vertical prosecution – same prosecutor for the entire case ■ If not charging – meet with victim face to face with advocate present ■ Work with advocate to prepare victim for court proceedings ■ Meet/talk with victim before any deal is offered/ accepted and to solicit victim's input on disposition alternatives ■ Acknowledge victim's range of options for participation in the prosecution process
SANE	<ul style="list-style-type: none"> ■ Utilize SANE services when available ■ SANE will notify advocacy and respond as a team ■ Give victim options of care, explain each procedure and why it's necessary ■ The victim has the right to choose what procedures they will and will not have

²⁴ Baltimore County Sexual Assault Response Team. Found online at: <http://www.goccp.maryland.gov/bestPractices/best-practices3.php>.

Recommended Best Practices for Responding to PREA Cases	
Security Director or Designated Shift Supervisor	<ul style="list-style-type: none"> ■ Security Director for designee takes initial report and does preliminary review. ■ Secure the crime scene and preserve evidence ■ Contact local Law Enforcement
PREA Director	<ul style="list-style-type: none"> ■ Assign PREA Investigator ■ Provide guidance and direction in PREA cases when necessary ■ Serve as a liaison with local Law Enforcement and Prosecution
PREA Investigator	<ul style="list-style-type: none"> ■ Contact local Law Enforcement to coordinate investigation and to share information ■ Gather evidence ■ Coordinate interviews with local Law Enforcement
Victim Services Coordinator	<ul style="list-style-type: none"> ■ Meet with victim/inmate to provide support and information about available services ■ Coordinate and provide after care services as necessary
Community Based Advocacy Program	<ul style="list-style-type: none"> ■ Coordinate provision of advocacy services with Victim Services Coordinator ■ Provide court support if necessary
Prosecution	<ul style="list-style-type: none"> ■ Meet and/or confer with victim/inmate prior to charging ■ Meet and /or confer with victim inmate before any plea agreement is offered or accepted
Victim Witness	<ul style="list-style-type: none"> ■ Coordinate with Victim Services Coordinator and Community Based Advocate if case is charged ■ Work with Prosecutor to prepare victim/inmate for court proceedings
SANE	<ul style="list-style-type: none"> ■ Provide SANE exam as outlined in SANE protocol ■ Communicate with local Law Enforcement and DOC personnel to provide victim centered care while insuring safety requirements are met
Law Enforcement	<ul style="list-style-type: none"> ■ Receive any evidence from DOC staff ■ Process crime scene with DOC staff ■ Conduct parallel interviews and investigation with PREA Investigator

Glossary of Terms:

Term	Definition
Community based advocate Pg 11	Community based advocates are employees of local non-profit organizations whose primary purpose is to provide services to victims of sexual assault regardless of whether or not the victim is involved with the criminal justice process. For the community based advocate it is the victim – not the needs of the system – that identifies the outcome.
Comprehensive victim interview Pg 18, 19	Conducted by officers who have specific training in sexual assault interview and investigations; obtaining a comprehensive narrative regarding the assault history.
Confidentiality Pg 12-13	Laws governing protection of the confidentiality of information shared between a professional and a victim.
Coordinated Community Response teams (CCRs) P. 5	A community based multidisciplinary approach and response to issues around sexual assault that provides an opportunity for members of the community, offender treatment providers, schools, and clergy members to join with system/service providers to discuss sexual assault and its effect on the community.
Crime Victim Compensation (CVC) Funds Pg 32	A funding source victims may apply for that can be used to pay for the medical costs of sexual assault exams (if the patient does not have insurance or medical assistance), clothing taken for evidence, et cetera.
Critical incident Pg 16	Any event that has a stressful impact sufficient enough to overwhelm the usually effective coping skills of an individual.
Initial court appearance Pg 25	First appearance of defendant in the court system, not a mandatory appearance for the victim.
MOUs (Memorandums of Understanding) Pg. 8	A signed agreement that includes team members' contact information and names of alternate members from their agency assigned to the team, agreement to attend team meetings, resources an individual will bring to the team, and agreement to support the SART process.
Offender Focused Pg. 7, 15	An offender focused response acknowledges that offenders purposefully, knowingly and intentionally target victims whom they believe they can successfully assault
Preliminary court appearance Pg 25	The preliminary hearing is where the judge must be informed about the facts of the case and prepare for the preliminary hearing. The victim is often needed to testify during this hearing to substantiate probable cause to bind the case over for trial.

Term	Definition
Prophylaxis Pg 32	Prophylaxis for the prevention of sexually transmitted infection and emergency contraception should be offered and provided to all patients.
SANE exam Pg 29	Sexual assault nurse examiner that responds to a sexual assault victim to provide for the immediate medical care of patients/victims, to collect and document forensic evidence, and to provide expert testimony in the cases that go to trial.
SART Trained Pg 19	SART Trained personnel are key personnel that who are responding to a sexual assault investigation which have obtained training regarding SART protocols, enhanced interview skills, victim advocacy and evidence collection.
Sexual Assault Response Team Pg 6	SART is defined as a multidisciplinary response team that provides direct intervention to sexual assault victims as they interact with the criminal justice system and coordinate effective investigative and prosecutorial efforts in connection with a report of sexual assault.
Vertical Advocacy Pg 14	The best practice for the victim to have the same advocate throughout the reporting process.
Victim centered response Pg 7, 9, 16, 17, 21, 23, 25, 27, 28	SART must above all else be victim centered in its response. This means that each member of the SART recognizes that they are accountable to the victim.
Victim recantation Pg 26	Victim Recantation is a retraction or withdrawal of a reported sexual assault.
Wisconsin Coalition Against Sexual Assault (WCASA) Pg 5	WCASA is a membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 43 agencies throughout the state that offer support, advocacy and information to victims of sexual assault and their families.

SEXUAL ASSAULT NURSE EXAMINER (SANE) / FORENSIC NURSE EXAMINER (FNE) EVALUATION OF THE ADOLESCENT / ADULT VICTIM OF SEXUAL ASSAULT

This guideline was developed by the Wisconsin Chapter of the International Association of Forensic Nurses. This guideline is recommended for the care of the adolescent and adult when there is a history or concern of sexual abuse or assault. The guideline is not intended to include all the triage issues, medical evaluations, tests, and follow-up that may be necessary for appropriate care for an individual patient. Not all the steps outlined in this guideline will be appropriate for every patient. The purpose of this guideline is to provide direction for SANE / FNE in the care of the adolescent or adult sexual assault patient. The goal is to ensure that compassionate and sensitive services and care are provided in a non-judgmental manner. The physical and psychological well being of the sexual assault patient is given precedence over forensic needs. The guideline represents the basic standards in the assessment and care of the sexual assault patient. A review of the guideline by the members of the Wisconsin Chapter of the International Association of Forensic Nurses Documentation / Protocol Subcommittee will be conducted periodically to ensure current standards of practice.

I. GENERAL INFORMATION

Purpose of Exam

Medical/Forensic

1. Identify and treat injuries. Injuries that require intervention beyond scope of practice of SANE/FNE should be referred to the physician for treatment
2. Assess risk of pregnancy and sexually transmitted infections
3. Provide prophylaxis for sexually transmitted infections and emergency contraception, when indicated
4. Document history
5. Document physical findings
6. Collect / document forensic evidence

Social/Psychological

1. Respond to patient's and family's immediate emotional needs and concerns
2. Assess patient safety and immediate mental health needs
3. Explain reporting process, Crime Victims Compensation, and resources for advocacy and counseling

Consult/Report/Refer

1. Refer for follow-up medical care
2. Refer for advocacy and counseling
3. In the case of minors report to Child Protective Services (CPS) and/or law enforcement ASAP
4. Report to law enforcement in the county where crime occurred, when indicated (See section "Mandated Reporting" below)

II. TRIAGE DECISIONS

Acute: If assault within prior 96 hours.

1. Medical/forensic exam is considered urgent
2. Advise patient, if possible:
 - Do not bathe before exam
 - Bring in clothes worn at time of assault and immediately after assault, especially undergarments
 - Bring change of clothing
 - Come to hospital with support person, if possible

Non-Acute: If assault >96 hours prior

1. **Forensic Exam – A forensic exam is generally NOT indicated on emergency basis**
 - Individual case circumstances may warrant urgent evidence collection beyond 96 hours after an assault (i.e., little or no post assault hygiene, held captive, etc.) or when requested by law enforcement

2. **Medical Exam – Medical evaluation is indicated for all patients at any time following sexual assault**
 - Patients may be evaluated by the SANE / FNE or referred to primary care provider or clinic for medical care
 - Advise patient of mandated reporting to CPS and/or law enforcement when under 18 years old
 - Inform and/or assist adult patient in contacting police, if the patient gives his/her consent.
 - Refer to sexual assault center, advocacy organization or mental health counselor for psychological support

Emergency Department Triage: Medical stabilization always precedes forensic examination

1. The following history or conditions should be evaluated medically prior to the sexual assault exam:
 - History of LOC
 - Head injury
 - Altered consciousness or mental status
 - Significant facial injury
 - Possible fractures
 - Blunt injury to chest, abdomen or back
 - Active bleeding
 - Strangulation
 - Pregnancy with complications (i.e., bleeding, decreased fetal movement, abdominal pain, etc.)
 - Acute pain
2. Psychiatric illness
 - If apparent psychiatric illness complicates assessment of reported sexual assault, both psychiatric assessment and medical forensic exam generally will be necessary. Proceed according to patient tolerance and needs

Advocacy: SANE / FNE Programs will contact advocacy when the SANE / FNE is called and together will respond as a team.

Mandated Reporting

1. **Life-threatening assault/use of weapons**
 - Injury caused by any weapon or incidents involving life-threatening assault must be reported to law enforcement irrespective of reporting the sexual assault (WI Statute)
2. **Minors <18 years**
 - Nursing and medical providers are mandated to report to CPS and/or law enforcement ASAP when the victim is under 18 years of age (WI Statute) Mandatory reporting applies even when minor has signed consent for their own care
3. **Adults (18 and older)**
 - If the patient is an adult age 18 years and older and is competent, notification of law enforcement is done only if the patient gives his/her consent
4. **Documentation**
 - All mandated reporting must be documented within the medical record.

Consent: Informed consent for all procedures, evidence collection and treatments is obtained in all cases

1. A patient seeking treatment for medical conditions related to reproductive health care may consent to such medical care or treatment at any age and without consent of parent/guardian (WI Statute). Abortion requires parental consent or judicial bypass.

III. HISTORY AND INITIAL EVALUATION – See the WI-IAFN Sexual Assault Nurse Examiner (SANE) / Forensic Nurse Examiner (FNE) Adult/Adolescent Sexual Assault Report

Patient Information: Document the following information if it is available and pertinent:

1. Routine data: patient name, gender, ethnicity/race, age, birth date, medical record number, home address, phone number/contact information
2. Date and time of arrival
3. Who accompanied patient, and their relationship
4. Interpreter name, if used, and language
5. Advocate
6. Name of law enforcement agency and personnel
7. Name of CPS worker or adult protective case worker
8. Law enforcement case number, if available

History of Assault: Interview patient and document the following:

Facts about assault

1. Source of information (patient, police, or other person)
2. Nature of concern
3. Time, place of assault, and jurisdiction/location if known
4. Time since assault
5. Number of assailants and identity of assailants, if known
6. Relationship of assailant(s), if known
7. Record narrative history of assault

Methods used for control

1. Patient had impaired consciousness
2. Known or suspected alcohol/drug ingestion
3. Verbal threats
4. Use of physical force
5. Use of weapon
6. Use of coercion

Physical facts of sexual assault

1. Which orifices assaulted
2. By what (finger, penis, mouth, foreign object)
3. Whether condom was used
4. Physical injuries
5. Whether bleeding or pain was reported

Post assault activity of the patient

1. Showered or bathed
2. Douched, rinsed mouth, urinated, defecated
3. Changed clothes, gave clothes to police at scene, or brought clothes worn at time of assault to emergency department/clinic

Risk factors of assailant regarding Hepatitis B/C, HIV, if known

1. Known or suspected IV drug user
2. Man who has had sex with men
3. From an endemic country
4. History of prostitution
5. Blood or mucous membrane exposure

Past Medical History

1. Significant medical problems, surgery, major injuries, chronic diseases, immune problems, developmental, cognitive, mental health and/or physical disabilities
2. Current medications
3. “Stated” height and weight
4. Recent ingestion of other drugs, including over-the-counter drugs, legal and illegal substances, and alcohol
5. Allergies
6. OB/GYN history

7. Birth control method (IUD, tubal, OCP, etc.)
8. LMP
9. Last consensual intercourse if <96 hours
10. Patient's history of Hepatitis B vaccine or illness
11. History of Tetanus vaccine

Plan of Care

1. Discuss options for medical and forensic examination
2. Discuss patient reporting to law enforcement
3. Discuss mandatory CPS and/or law enforcement reporting
4. Inform patient that written information and educational literature will be provided

IV. EVIDENCE COLLECTION & STORAGE

Forensic Evidence Collection: Standard Sexual Assault Evidence Collection Kit, provided by the Wisconsin State Crime Laboratory, is generally used for evidence collection. Someone is available at the Crime Lab 24/7 to answer questions at (608) 266-2031.

Chain of Custody of Forensic Specimens: One staff member must be responsible for maintaining chain of evidence at all times. That staff member:

1. Observes specimens **OR**
2. Designates another staff member to watch specimens **OR**
3. Store specimens in secured refrigerator, cabinet, or specific area

Injury Documentation: Obtain digital photographs or request law enforcement to obtain photos. Video or photocolposcopy may be used to document the anogenital exam. Alternatives are careful drawings using anatomical sheets, Polaroid photographs or 35mm camera with macro lens.

1. Obtain consent from patient for photographs
2. Include patient's ID in all photos
3. Take one photo of face and one of entire body, with clothes on, prior to exam
4. Include a ruler or coin in photos of injuries to document size of lesions
5. Document type of photos, parts of body in photos, and name of photographer in medical chart
6. Secure photodocumentation per hospital protocol.
7. Careful documentation with drawings is necessary even when photos are taken

Evidence Collection

General

1. It is the patient's right to consent or refuse any aspect of the exam and evidence collection.
2. The physical and psychological well being of the sexual assault patient is given precedence over forensic needs.
3. The proper collection of evidence is dependent upon the examiner and evidence beyond what is generally collected (as described in the kit instructions) should be collected when appropriate. Envelopes may be relabeled when used to obtain swabs from sites other than those outlined in the kit. The Crime Lab is available 24/7 @ (608) 266-2031 to answer questions about the collection of evidence.
4. The kit does not include everything that one needs to collect evidence. Materials such as scissors, tape, etc. will need to be collected from hospital stock.
5. Drying of collected materials is very important as moisture enhances the proliferation of bacteria and mold which will destroy biological and trace evidence. Drying may be accomplished by air drying or by the use of a drying box. Use of a drying box requires the development of policy which addresses the cleaning of the box and the methods used to prevent cross contamination of the swabs.
6. Wear powder-free gloves and change gloves frequently during all phases of evidence collection and processing.
7. Collect evidence which may be compromised by time or examination FIRST such as oral swabs and smear (in cases of an oral assault) and fingernail debris/scraping.
8. NEVER LICK evidence envelopes to seal.
9. NEVER store evidence in plastic bags or airtight containers.

Sexual Assault Report Form

1. Fill out all information requested on form. Have patient sign and date consent section, the SANE/FNE must sign and date form where indicated.

Oral Swabs and Smear - Collect ASAP when:

1. Abuse/assault occurred or visible oral injury or history of oral/genital contact
2. Unwaxed dental floss can be used for areas between the teeth. Have the patient floss his/her own teeth *using a minimal amount of floss*. Do not return the used floss to the plastic bag – place in oral swabs envelope
3. Using 2 swabs simultaneously, thoroughly swab the oral cavity, especially between the cheeks and gums
4. Using swabs, rub a dime-sized area on center of slide/smear
5. Allow swabs and slide/smear to thoroughly air dry
6. Return slide/smear to holder and shut.
7. Place swabs in swab box, check off site on box
8. Return swabs and slide/smear to envelope
9. Seal and fill out all information requested on the envelope

Buccal Cell Standard (DNA) - Collect reference oral standard swabs to establish patient DNA

1. Rinse mouth with water prior to collecting sample
2. Using one swab, place the swab in solid contact with the inner cheek and gum surface
3. Gently move the cotton tip in and out five or six times, rotating the swab while rubbing
4. Repeat process with the second swab on the other inner cheek and gum surface
5. Do not collect from the teeth or along the edges of the teeth
6. Place the swabs on the sterile swab package to thoroughly air dry
7. Return the dried swabs to the envelope
8. Seal the envelope and fill out all information requested on envelope

Fingernail Evidence - Collect if patient reports scratching assailant or examiner believes nail debris may be related to assault. Obtain when visible debris or blood under nails, nails broken during assault and/or history suggests patient scratched assailant

1. Either patient or examiner may collect fingernail scrapings (if patient, examiner must observe).
2. Evidence from each hand should be collected individually. Place small paper sheet on flat surface
3. Using disposable plastic scraper, scrape under all five fingernails of left hand (or right), allowing any debris to fall onto paper
4. Bindle paper (fold all edges inward so that there are no open edges) to retain debris and scraper
5. Place each paper and scraper in a separate labeled envelope
6. Place both envelopes in the larger envelope
7. Seal envelope, place patient label over seal, sign over seal and store securely in the kit
8. Fingernail swabbings may be obtained if the fingernails are short. Use one moistened swab for each set of nails.

Debris - Collect when foreign material is visible on patient's skin or hair and patient reports, or examiner believes, debris is related to the assault. Collect grass, fibers, paint flecks, etc. which may adhere to patient's skin.

1. Collect any foreign debris (dirt, leaves, fiber, hair, etc.)
2. Separate debris – Do NOT collect unlike debris from one site or like debris from different sites in the same envelope
3. Note site from which debris is obtained on the envelope
4. Seal envelope, place patient label over seal, sign over seal and store securely in the kit

Trace Evidence/Collection Paper - To collect foreign material which may fall when patient undresses.

1. Place bed sheet or large paper sheet on floor. This is to prevent floor debris from adhering to evidence collection paper
2. Place evidence collection paper sheet over the bottom sheet
3. Instruct patient to stand in the center of paper and remove clothing
4. Bindle paper (fold all edges inward so that there are no open edges) where patient stood, retaining any foreign material, and place in paper bag as forensic evidence: seal, label, and sign over seal

Clothing Collection - If assault occurred out of doors, or clothing was stained or damaged during assault, collection is particularly important. Collect the clothes the patient was wearing during or immediately after the assault except underwear which should always be collected. Wet clothing should be dried in a secure room or area, or transferred to law enforcement ASAP. Do not cut through any existing holes, rips, or stains. Do not shake out victim's clothing or trace evidence may be lost.

1. Do not fold wet or bloody clothing in a way which will transfer the blood or fluid to another site on the clothing – layer paper and/or linen prior to folding to prevent transfer
2. Consider taking photographs of relevant clothing i.e., rips, tears, body fluids, debris, etc.
3. Place each item of clothing in a separate paper bag labeled with contents
4. Place patient label on each bag, fold over top of bag, tape bag closed, and sign over tape
5. Document anything unusual about clothing i.e., rips, stains, bites which occurred through clothing, etc.
6. Maintain chain of evidence for clothing bags. Place in secured area when not directly observed

Underwear - Collect patient's underwear routinely even if changed after assault.

1. Pooled secretions may leak onto underwear
2. Package patient's underwear in a small paper bag labeled with contents.
3. Place patient label on bag, fold over top of bag, tape bag closed, and sign over tape

Other Items - Collect items which may contain forensic evidence, such as tampon or pad, and condom. These should be collected on a case-by-case basis. Contact Crime Lab for further drying and storage instructions if needed.

1. Air dry the item if possible. If unable to air dry, package the item in a non-air tight container, such as a urine cup with holes in the lid to allow the item to dry. Contact law enforcement for transport ASAP
2. Place patient label over seal, sign over seal, and store with kit or in separate paper bag.

Dried Secretions - Examples of dried secretions may be vaginal secretions on a penis, saliva on a bite mark, penis or external genital area and dried blood.

1. Use sterile cotton swabs.
2. To obtain swabs from dry areas (i.e., skin, fingertips, rectum, and any areas that may contain DNA) lightly moisten a swab with distilled water (soaking in water will prolong drying time and increase likelihood of specimen molding) and swab area of interest. Then swab moistened area with another dry swab. Collect both swabs.
3. When collecting a penile swab, the entire external area of the penis should be swabbed. Care should be taken to avoid the area around the urethral opening.

As each swab is obtained:

1. Place swabs in drying rack from kit or drying box in secure area.
2. Allow swabs to thoroughly air dry.

When swabs are dry:

1. Place all swabs from same site in one swab box and then into appropriate envelope.
2. Label swab box and envelope with site from which specimen is obtained.
3. Affix patient label to front of envelope.
4. Seal envelope with tape or patient label, sign over tape/seal and store securely in evidence kit.

Pubic Hair Collection: Pubic Hair Combing for Male and Female - To collect foreign hairs and debris. Omit if pubic hair is not present or has been shaved.

1. Either patient or examiner may do actual combing (if patient, examiner must observe).
2. Patient should be sitting or lying in dorsal lithotomy position.
3. Place paper sheet under the victim's buttocks.
4. Using disposable comb, comb pubic hair in downward strokes so that any loose hairs and/or debris will fall onto paper.
5. Bindle paper to retain both comb and any evidence present.
6. Place in envelope, place patient label on envelope with contents identified.
7. Seal envelope with tape or patient label, sign over tape/seal and store securely in evidence kit.

Pubic Hair Collection: Male and Female - DO NOT PLUCK PUBIC HAIRS!!

1. The victim may collect his/her own pubic hair standards
2. Obtain at least 20 hairs by cutting them at the skin surface. The hairs should be collected from various areas within the pubic region
3. Place the hairs in the Pubic Hair Standards envelope, place patient label on the envelope and seal.

Vaginal Swabs and Smear

Collect when:

1. Assault occurred within prior 96 hours **and**
2. History of penile-genital or oral-genital contact **or**
3. Report of contact to genitalia, perineum by any part of assailant's body **or**
4. Ejaculation occurred near anogenital area **or**
5. Visible acute genital injury **or**
6. Alternative light source scan is positive in anogenital area

Procedure:

1. Using four (4) swabs simultaneously, thoroughly swab the vaginal vault.
2. Immediately prepare one smear using all four swabs simultaneously.
3. Allow swabs and smear to thoroughly air dry

When swabs/smear are dry:

1. Return smear to slide holder and shut
2. Place all swabs from same site in one swab box and then into appropriate envelope
3. Label swab box with specimen site
4. Affix patient label to front of envelope
5. Seal envelope with tape or patient label, sign over seal and store securely in evidence kit.

Cervical Swabs and Smear

Collect when:

1. Assault occurred within prior 96 hours **and**
2. History of penile-genital or oral-genital contact **or**
3. Report of contact to genitalia, perineum, by any part of assailant's body **or**
4. Ejaculation occurred near anogenital area **or**
5. Visible acute genital **or**
6. Alternative light source scan is positive in anogenital area

Procedure:

1. Using two (2) swabs simultaneously, thoroughly swab the cervix including the os.
2. Immediately prepare one smear using both swabs simultaneously.
3. Allow swabs and smear to thoroughly air dry.

When swabs/smear are dry:

1. Return smear to slide holder and shut
2. Place all swabs from same site in one swab box and then into appropriate envelope
3. Label swab box with specimen site
4. Affix patient label to front of envelope
5. Seal envelope with tape or patient label, sign over seal and store securely in evidence kit.

Rectal Swabs and Smear

Collect when:

1. Assault occurred within prior 96 hours **and**
2. Report of contact to anus by any part of assailant's body **or**
3. Ejaculation occurred near anogenital area **or**
4. Visible acute anal injury **or**
5. Alternative light source scan is positive in anogenital area

Procedure:

1. Lightly moisten swabs with distilled water if area is dry.
2. Using two (2) swabs simultaneously, thoroughly swab the rectal canal
3. Immediately prepare one smear using both swabs simultaneously.
4. Allow swabs and smear to thoroughly air dry

When swabs/smear are dry:

1. Return smear to slide holder and shut
2. Place all swabs from same site in one swab box and then into appropriate envelope
3. Label swab box with specimen site
4. Affix patient label to front of envelope

5. Seal envelope with tape or patient label, sign over seal and store securely in evidence kit.

Crime Lab Toxicology: If drug facilitated sexual assault is suspected, specimens for analysis should be collected as soon as possible.

1. Collect only if date rape drugs are suspected of being ingested (i.e., victim lost consciousness or had significant periods of memory loss that are not explainable) and the patient is reporting to law enforcement.
2. Blood and urine should be collected within 24 hours of suspected drugging. Urine ONLY should be collected > 24 hours but within 4 days of suspected drugging.
3. Blood sample – fill a 10ml gray-top tube (State Lab of Hygiene Implied Consent Collection Kit) with blood. An alternative is to use 2 (7ml) lavender-top tubes.
4. Urine sample – Obtain urine as soon as possible. Collect the urine from the patient according to hospital protocol. Fill a 10ml gray-top tube (State Lab of Hygiene Implied Consent Collection Kit) with the collected urine.
5. Seal samples and place inside an appropriate biological mailing container (State Department of Hygiene Implied Consent Collection Kit). Fill out all information requested on the Optional Toxicology Samples label. Affix the label to the mailing container.
6. Transfer specimens to law enforcement to be processed by the Crime Lab. Do **NOT** send these samples to the State Laboratory of Hygiene.
7. Blood and urine samples must be kept refrigerated if not taken to the Crime Lab immediately.

Completing Evidence Collection Kit

1. Once all evidence has been placed inside the kit:
 - a. Complete information requested on the cover of the kit
 - b. Place a patient label on the kit, seal and initial
 - c. Give the kit to the law enforcement representative and have the officer sign the cover of the kit
 - d. Have the officer complete and sign the SANE/FNE Sexual Assault Report Evidence Collection Sheet for chain of custody
2. If no law enforcement representative is available, store the kit in a secure area, contact law enforcement immediately and give them the location of the completed kit so they can pick it up ASAP

Evidence Storage

Temperature

1. Dry evidence may be kept at room temperature
2. Damp or wet evidence specimens should be thoroughly air dried. If this is not possible, these specimens must be given to law enforcement with instructions for further drying
3. Blood tubes and/or urine samples (toxicology) must be kept refrigerated if not taken to Crime Lab immediately

Clothing

1. Each piece of dry clothing should be placed in a separate paper bag, sealed with tape, signed over seal, and labeled with patient ID and contents
2. Wet clothing should be dried completely – this may be done by law enforcement after SANE/FNE exam

To process as Forensic Evidence

1. Place all evidence in paper bag, envelope, or kit
2. Seal envelope, place patient label over seal, sign over seal, and place in evidence kit
3. Biological specimens (swabs, slides) should be labeled with site obtained from
4. All evidence in kit should be dry
5. Any wet evidence should be fully air dried, this may be done by law enforcement after exam
6. Store entire, sealed kit at room temperature in a secured area until transfer to law enforcement
7. Toxicology – blood tubes and / or urine samples should be sealed in the appropriate biological mailing container (State Laboratory of Hygiene Implied Consent Collection Kit) until transferred to law enforcement. These specimens should be refrigerated if not taken to Crime Lab immediately.

Drying Box

1. Clean drying box with antimicrobial cleaning solution per institution protocol

V. INITIAL LAB TESTS

Pregnancy Test: Obtain urine or serum pregnancy test on all patients at risk of pregnancy

Toxicology Tests: Obtain toxicology and/or alcohol level when:

1. Patient appears impaired, intoxicated, or has altered mental status
2. Patient reports blackout, memory lapse, or partial or total amnesia for event
3. Patient or other is concerned that he or she may have been drugged
4. Separate consents for toxicology specimens need not be obtained, but patient should be informed that specimens are obtained
5. Samples for toxicology should be obtained ASAP

Hospital toxicology

1. If toxicology and/or alcohol results are needed for patient care, stat hospital toxicology tests must be done

Crime Lab toxicology (if assault reported to law enforcement)

1. Drug and alcohol testing may be done for legal purposes; legal specimens follow a chain of custody and are given to law enforcement (not processed through hospital lab)
2. See Section IV. **Evidence Collection & Storage**

Toxicology for non-reporting patients

1. Drug and alcohol testing may be done if the patient requests such testing
2. These specimens are not given to law enforcement
3. Testing should be done according to hospital protocol.
4. The results to such testing will become a part of the patient's medical record

VI. MEDICAL EXAMINATION

General Information

1. All patients should receive a complete head-to-toe physical examination. It is the patient's right to consent or refuse any aspect of the exam and evidence collection.
2. The patient may have a support person (relative, friend, or advocate) present during the exam.
3. General
 - a. Document developmental level, emotional status, mental status and general appearance
 - b. Document objective observations: "patient avoids eye contact and is teary-eyed" is preferable to "patient is sad"
 - c. Vital signs, height, and weight

Exam Procedure: The following sections outline the steps for the exam and collection of evidence. The order of these steps may vary by examiner preference or patient need.

Oral Exam

Document: Lacerations, abrasions, petechiae, and bruises and how injury acquired, if known.

Document sites of pain even if no injury is noted. Check mucosa, palate, upper/lower frenula and tongue

Forensic Swabs See Section IV. **Evidence Collection & Storage**

Skin Exam

Document: Bruises, petechiae, abrasions, lacerations, bite marks, and suction ecchymoses and how injury acquired, if known. Document sites of pain even if no injury is noted.

1. Describe traumatic lesions and marks on anatomical sheets.
2. Ask patient how each injury occurred and document patient's statement.
3. Confirm that photos have been taken and/or a drawing completed of acute traumatic lesions.
4. Using alternative light source with room lights dimmed, scan patient's skin surface, including breasts, abdomen, perineum, hair, face, buttocks, and thighs:
 - Semen may fluoresce
 - Document presence/absence and location of fluorescence
 - If history indicates presence of evidence, collect blind swab from area even if no fluorescence is noted

Forensic Swabs See Section IV. **Evidence Collection & Storage**

Genital Exam – Female

Document: Genital lacerations, abrasions, bruises, petechiae, erythema, inflammation, bleeding, edema, discharge, degree of estrogenation. Document sites of pain even if no injury is noted.

1. Use vaginal speculum to visualize vagina and cervix, and note lacerations, abrasions, petechiae, and bruising
2. Do not use lubricant for speculum. May rinse speculum in warm water for patient's comfort.

Forensic Swabs: See Section IV. **Evidence Collection & Storage**

For young adolescents who have not had a prior pelvic exam, or any patient who cannot tolerate a speculum exam, forensic swabs may be collected by directly inserting swabs 2-3 inches into the vagina

Do not moisten swabs for areas that are moist

Genital Exam – Male

Document: Penile, scrotal or perineal abrasions, bruises, lacerations, petechiae, bleeding, edema, discharge, erythema, inflammation, tenderness and Tanner Stage. Document sites of pain even if no injury is noted.

Retract foreskin to examine glans penis

Forensic Swabs: See Section IV. **Evidence Collection & Storage**

Perianal and Anal Exam – Male and Female

Document: Perianal bruising, petechiae, edema, discharge, bleeding, tenderness, abrasions, lacerations, erythema, inflammation, and visible anal laxity. Document sites of pain even if no injury is noted.

Exam Technique

1. Use good light source
2. Separate anal folds to visualize injuries
3. Digital exam is not indicated, except if concern for foreign body retention
4. Anoscopy is indicated if there is a report of anal assault, active rectal bleeding or rectal pain. May require physician consult.
5. Lubricant should be used for anoscopy. To avoid contamination by lubricant, perform anoscopy only AFTER FORENSIC SWAB COLLECTION

Forensic Swabs: See Section IV. **Evidence Collection & Storage**

VII. DIAGNOSTIC TESTS FOR MEDICAL TREATMENT

The following tests and procedures are not recommended for forensic purposes but may be done for patient care.

Pregnancy Test: Obtain urine or serum pregnancy test on all patients at risk of pregnancy prior to administration of emergency contraception

Toxicology Tests: See Section V. **Initial Lab Tests**

Vaginal Wet Mount

1. May be used to assess vaginitis if signs and symptoms are present
2. Request that lab check and report presence of sperm

STI Tests for Gonorrhea and Chlamydia

1. STI testing, if done at time of acute assault, should be repeated at follow-up visit
2. Specimens for STI testing go to hospital / clinic lab NOT to Crime Lab
3. Inform patient that these tests are related to health issues and are not exclusively for forensic purposes
4. Positive tests may indicate pre-existing infection
5. For vaginal or penile infection
 - Urine, cervical or penile/urethral swabs for MAD (Molecular Amplification Detection) test or vaginal or penile culture for gonorrhea and chlamydia
 - Positive MAD test must be confirmed by culture if results to be used for forensic purposes
6. For anal infection

- Culture for gonorrhea and chlamydia
- 7. For pharyngeal infection
 - Culture for gonorrhea
 - Do not culture for chlamydia

STI Tests for Syphilis and Syphilis Serology

1. Syphilis baseline test may be offered with knowledge of community epidemiology
2. Syphilis serology is best done 3 months after exposure

HIV Testing

1. Baseline HIV testing is generally not recommended in the emergency department
2. Baseline HIV testing may be performed up to two weeks post assault and may be performed in follow-up visit or preferably by the primary care provider
 - If the patient wishes HIV serology testing in the emergency department, pre-test counseling must be done and post-test counseling arranged
 - Patient must exhibit understanding that testing does not reflect acquisition of HIV from the assault, but related to possible exposure 2 months or more prior
3. If testing is done, arrangements must be made for follow-up visit to discuss results

Hepatitis Serology

1. Indicated if patient is unsure of Hepatitis B immune status
2. Hepatitis B/C serology is best done 3 months after exposure

VIII. TREATMENT

Pregnancy Prevention: Every patient who is at risk for pregnancy will be offered prophylactic treatment for pregnancy prevention. Document on the medical record if the patient declines pregnancy prophylaxis.

Offer emergency pregnancy prophylaxis when:

1. Patient is at risk for pregnancy and
 - patient is not using highly reliable method of contraception such as oral contraceptives (no pills missed in a cycle), Depo provera or IUD and
 - pregnancy test is negative
2. Emergency contraception must be given within 120 hours of a sexual assault to be effective.

Medications used: “Plan B” or what hospital has within formulary.

- “Plan B” can be given 1 tab every 12 hours or as 2 tabs immediately, anti-emetics not needed

STI Prophylaxis: Every patient will be offered prophylactic treatment for sexually transmitted infections per current CDC guidelines

The following recommended antimicrobial regimen for treatment of chlamydia, gonorrhea, trichomonas, and BV may be administered to **pregnant** and **non-pregnant** adolescent and adult patients of acute sexual assault (<http://www.cdc.gov/std/treatment/2006/toc.htm>):

Azithromycin 1.0 gm orally in a single dose (Chlamydia) PLUS

Metronidazole 2 gm orally in a single dose (Trich/BV) PLUS

Ceftriaxone 125 mg IM in a single dose (GC)

Alternative Medication Regimens

1. Chlamydia
 - Erythromycin base 500mg PO QID x 7 days
 - OR
 - Erythromycin ethylsuccinate 800 mg PO QID x 7 days
 - OR

In non-pregnant patients:

Doxycycline 100 mg PO BID x 7 days

OR

Ofloxacin 300 mg PO BID x 7 days

OR

Levofloxacin 500 mg PO x 7 days

2. Gonorrhea

In non-pregnant patients:

Cefixime 400 mg PO in a single dose

OR

Cefpodoxime 400 mg PO in a single dose

Hepatitis B Vaccine: Offer when

1. Patient has not been previously fully immunized for Hepatitis B **and**
2. Patient has a negative history of Hepatitis B **and**
3. Secretion-mucosal contact occurred during assault **and**
4. Patient signs consent for immunization
5. Inform patient that repeat vaccine doses are necessary at one month and six months after initial vaccine

Tetanus Prophylaxis: Offer when

1. Skin wounds occurred during assault **and**
2. Patient is not up-to-date for Tetanus immunization (no immunization past 5 years)
3. Patient signs consent for immunization

HIV Prophylaxis: Every patient will be offered prophylactic treatment for sexually transmitted infections, with the exception of HIV. In the case of HIV, the patient will be offered information regarding HIV and appropriate medical follow up for HIV. Prophylactic treatment for HIV may be started in the emergency department if the emergency department has prophylactic HIV protocols in place. Generally prophylaxis not recommended, except in cases considered high risk:

- Assailant gay or bisexual male, IV drug user, prostitution history or from endemic area
- Assailant known to have HIV
- Multiple assailants

IX. DISCHARGE AND FOLLOW-UP CONTACT

Discharge

1. Discuss safety issues / plan
2. Appropriate medical follow-up will be identified for the patient with respect to the evaluation of possible sexually transmitted infections, pregnancy and any physical injuries sustained during the assault
3. Explain follow-up for test results
4. Offer patient education materials
5. Confirm plans for medical and counseling follow-up
6. Give phone number for sexual assault victim advocate and other support services
7. Follow-up counseling information will be provided to the patient by the sexual assault advocate or the forensic examiner
8. Give written discharge instructions for all treatment and follow-up
9. Information on area resources concerning medical follow-up, crisis intervention phone numbers, sexual assault crisis centers, shelters, CPS, Crime Victim Compensation Program, law enforcement and the district attorney's office will be given to the patient at the time of discharge
10. Per community protocol, refer minor patients to local child abuse intervention center for medical and forensic follow-up

Follow-Up: Recommended within two weeks of the initial exam

Review with patient or parent/guardian

1. Emergency department / clinic record
2. Lab results

3. Current physical symptoms
4. Emotional reactions (sleep disorders, anxiety, depressive symptoms, flashbacks, other)
5. Concerns for safety
6. Concerns regarding STIs and HIV
7. Assess social support (family, friends)
8. Additional history or any new information regarding the assault
9. If patient is a minor report any new allegations to law enforcement and/or CPS as appropriate
10. Document follow-up contact and additional referral(s) made within the medical record.

Referral: Refer for further medical follow-up, mental health and social services

RESOURCES

Wisconsin Coalition Against Sexual Assault (WCASA)..... (608) 257-1516

Wisconsin Coalition Against Domestic Violence (WCADV)..... (608) 255-0539

National Domestic Violence Hotline..... (800) 799-SAFE

Rape and Incest National Network (RAINN)..... (800) 656-HOPE

Completed on March 1, 2006 by the members of the Wisconsin Chapter of the International Association of Forensic Nurses Documentation / Protocol Subcommittee:

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Reviewed and revised by the remaining members of the Wisconsin Chapter of the International Association of Forensic Nurses (WI-IAFN) Documentation / Protocol Subcommittee and the WI-IAFN Board on July 29, 2008.

Sample Memorandum of Understanding

This cooperation agreement is by and among (list SART members)

Whereas, there are a significant number of people in the County of _____ that are affected by sexual assault and

Whereas, we believe the best practice for addressing victims of sexual assault in _____ County is through the use of a coordinated, multidisciplinary sexual assault response team (SART) and

Whereas, the above members wish to join together in a coordinated, multidisciplinary sexual assault response (SART), the agencies, as represented by their signatures agree to:

1. Join together in a group known as _____
2. Fully support the mission statement of _____ (a copy of said mission statement is attached)
3. Fully participate in all activities of _____

Signature

Agency Represented

Date

Racine County SART Case Review Release

The purpose of the SART Case Review process is to ensure that sexual assault cases in Racine County are handled in a way that promotes our mission.

The mission of the Racine County Sexual Assault Response Team (S.A.R.T.) is to promote a systemic response that holds sexual offenders accountable and fosters a community sensitive to the needs of sexual assault survivors. This will be done through the collaborative and coordinated multidisciplinary response of the agencies and organizations that work with sexual assault survivors in Racine County.

The SART team members include law enforcement, assistant district attorneys, sexual assault nurses, correctional facility members and sexual assault advocates.

Below are the benefits and drawbacks of releasing information to the SART team for the victim/survivor and their family.

- **Benefits-**If a counselor or advocate shares pertinent information with the SART team, this communication can improve the services provided to the victim/survivor and to any future victims/survivors of sexual assault throughout the system. Sharing information can also give the victim/survivor a voice to give feedback on the investigation and his/her treatment during the investigation, which can be healing for some victims/survivors.
- **Drawbacks-**The SART team will know that the victim/survivor received services from Sexual Assault Services of LSS. In addition, although the SART team members who attend the case review meeting are required to sign the attached confidentiality agreement, the agreed upon information will be shared with the SART team members, and there is no guarantee that the other SART team members will maintain confidentiality. In addition, when the victim/survivor gives consent to release information, it is possible that this information could be used against the victim/survivor in a court proceeding.

Sexual Assault Services of LSS will only release the information listed on the release form to the specific SART team members.

The victim/survivor can withdraw his or her consent to release the information at any time and this will be honored. However, this will only apply to the extent that information has not already been shared.

Date_____

Client's Signature_____

Advocate/Counselor_____

**Racine County Sexual Assault Response Team
Case Review Confidentiality Form**

Review Process. The mission of the Racine County Sexual Assault Response Team (S.A.R.T.) is to promote a systemic response that holds sexual offenders accountable and fosters a community sensitive to the needs of sexual assault survivors. This will be done through the collaborative and coordinated multidisciplinary response of the agencies and organizations that work with sexual assault survivors in Racine County.

The purpose of the SART Case Review process is to ensure that sexual assault cases in Racine County are handled in a way that promotes our mission. However, it is critical to acknowledge the sensitive nature of the information being discussed, and the importance of maintaining the confidentiality of the victim whose case is being reviewed. In addition, it is important to be aware of the limits of Advocate and/or Client privilege that some of the SART members may be restricted by.

Each individual representative and agency is responsible for maintaining confidentiality to the extent required by law and accepted practice. Each member of the team is bound by his or her professional ethics to share information outside the case review process only to the extent allowed by law and required by professional responsibilities.

As a SART member, or invited participant, I agree that I will not disclose or disseminate confidential information I gained access to as a part of the SART Case Review process. I understand that I may be subject to civil or criminal penalties if I improperly release information obtained during the SART Case

Signature	Print Name	Agency

Signature of SART Co-Chair	Date
----------------------------	------

LE Department or Agency Providing Case for Review	Case Number(s)
---	----------------

RACINE COUNTY SART CASE REVIEW

❖ Case Information

❖ Date of reporting/ service: _____

File Number: _____

Case Review Date: _____

Police Jurisdiction: _____

Victim: _____ Victim D.O.B. _____

Suspect: _____ Suspect D.O.B. _____

Relationship between Victim and Suspect

☐ Family member: _____ ☐ Spouse/Partner: _____

☐ Friend/ Acquaintance: _____ ☐ Stranger ☐ Other: _____

Officer/ Investigator: _____

SANE: _____

Advocate: _____

Prosecutor: _____

1. **Officer Notification:** a. Dispatch: ☐ Yes ☐ No ☐ Unknown
b. In person contact with victim: ☐ Yes ☐ No ☐ Unknown
c. Was suspect arrested: ☐ Yes ☐ No

2. **How many officers responded?** _____

- a. Line Officer ☐ Yes ☐ No
b. Detective/Investigator ☐ Yes ☐ No
c. Forensic/Evidence Tech ☐ Yes ☐ No

Comments: _____

3. **Was an Advocate called?** ☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

Did the Advocate respond? ☐ Yes ☐ No ☐ Unknown

Comments: _____

4. **Was HSD called?** ☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

Did HSD respond? ☐ Yes ☐ No ☐ Unknown

Comments: _____

4. Was a SANE completed? ☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

Comments: _____

5. Was CAC examination completed? ☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

Was a CAC interview completed? ☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

Comments: _____

6. Prosecution:

a. Was the case accepted for prosecution? ☐ Yes ☐ No ☐ Unknown

b. Was the response prompt? ☐ Yes ☐ No ☐ Unknown

Comments: _____

c. Was there Victim/ Witness notification? ☐ Yes ☐ No ☐ Unknown

d. Was there Victim/Witness and or DA contact throughout the proceedings?
☐ Yes ☐ No ☐ Unknown

e. Was there a trial?
Result of case? _____

7. Was the multi-jurisdictional protocol followed as far as practicably possible and appropriate?

☐ Yes ☐ No ☐ Unknown

a. Law enforcement? ☐ Yes ☐ No

i. Follow up suggestion to the law enforcement necessary? ☐ Yes ☐ No
If yes please identify issue(s): _____

- b. **Ab. Advocate?** ☐ Yes ☐ No
- i. **Follow up suggestion to Advocate necessary?** ☐ Yes ☐ No
If yes please identify issue(s): _____

- c. **SANE?** ☐ Yes ☐ No ☐ Not Applicable
- i. **Follow up suggestion to SANE necessary?** ☐ Yes ☐ No
If yes please identify issue(s): _____

- d. **Prosecution?** ☐ Yes ☐ No ☐ Not Applicable
- i. **Follow up suggestion to Prosecution necessary?** ☐ Yes ☐ No
If yes please identify issue(s): _____

- e. **HSD if applicable?** ☐ Yes ☐ No ☐ Not Applicable
- i. **Follow up suggestion to HSD necessary?** ☐ Yes ☐ No
If yes please identify issue(s): _____

- f. **CAC if applicable?** ☐ Yes ☐ No ☐ Not Applicable
- i. **Follow up suggestion to CAC necessary?** ☐ Yes ☐ No
If yes please identify issue(s): _____

Attach any additional paperwork if necessary for any of the follow up suggestions above.

13. **Was the victim given a Crime Victim Compensation Application?**
☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

14. Was victim cooperative with the investigation and prosecution?

☐ Yes ☐ No ☐ Unknown

15. Does it appear that the victim's needs were adequately met?

☐ Yes ☐ No ☐ Unknown

If no, what could have been done to better meet the victim's needs? _____

16. Does it appear that all law enforcement, investigative and prosecutorial needs were adequately met?

☐ Yes ☐ No ☐ Unknown

Comments: _____

17. Does it appear that all SANE/CAC needs were adequately met?

☐ Yes ☐ No ☐ Not Applicable ☐ Unknown

Comments: _____

Additional Comments:

Updated 7/9/2008