

STATE OF NEW HAMPSHIRE

GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE



OFFICE OF THE ATTORNEY GENERAL

A MODEL PROTOCOL FOR RESPONSE TO ADULT SEXUAL ASSAULT CASES

<http://doj.nh.gov/criminal/victim-assistance/protocols.htm>

2012 Edition

*It is New Hampshire's expectation that all disciplines involved
in the response to adult sexual assaults will work collaboratively
using a victim-centered approach.*

“This project was supported by subgrant No. 2012WNH4 awarded by the state administering office for the STOP Formula Grant Program. The opinions, findings, conclusions and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the state or the U.S. Department of Justice, Office on Violence Against Women.”

.

Table of Contents

NEW HAMPSHIRE ADULT SEXUAL ASSAULT PROTOCOL COMMITTEE	iv
PREFACE.....	1
HISTORY OF THE NEW HAMPSHIRE SEXUAL ASSAULT PROTOCOL PROJECT	2
PURPOSE STATEMENT.....	3
POLICY	3
SEXUAL ASSAULT RESOURCE TEAM (SART) MODEL	3
THE LAW.....	5
<i>Sexual Assault and Related Offenses - Definitions</i>	5
VICTIM REPORTING	7
LAW ENFORCEMENT RESPONSE	8
<i>The Role of Law Enforcement</i>	8
A Victim-Centered, Trauma Informed and Offender Focused Response.....	9
<i>Best Practices for Law Enforcement</i>	9
Initiating the Collaborative Response	10
The First Responder	10
Role of Law Enforcement During the Medical/Forensic Exam.....	11
Conducting a Comprehensive Interview/Assault History	11
Confronting Defense Challenges During the Victim Interview	12
Recantation	14
Polygraph Policy	14
Checklists	15
<i>Drug and Alcohol Facilitated Sexual Assault</i>	17
Victim Interviews in Drug/Alcohol Facilitated Sexual Assaults.....	18
TECHNOLOGICAL CONSIDERATIONS IN ADULT SEXUAL ASSAULT CASES.....	19
<i>Investigative Methods</i>	19
<i>Technological Evidence Collection</i>	20
ANONYMOUS REPORTING PROCEDURES	21

VICTIM ADVOCACY RESPONSE.....	23
<i>The Role of the Community Crisis Center Advocate</i>	<i>23</i>
<i>The Role of the System-Based Victim/Witness Assistance Programs.....</i>	<i>24</i>
Collaborating With Other Disciplines	25
MEDICAL RESPONSE	26
<i>Sexual Assault Evidence Collection Protocol and Kit.....</i>	<i>26</i>
<i>The Sexual Assault Nurse Examiner (SANE) Program</i>	<i>26</i>
<i>Best Practices For Medical Providers</i>	<i>26</i>
At a Glance	26
Community Based Advocacy	27
Prioritizing Patient Well-Being	27
Patient Consent	28
Adolescents	28
Timeliness of Evidence Collection	28
Confidentiality of Medical Information.....	29
THE STATE FORENSIC LABORATORY.....	30
PROSECUTION RESPONSE	31
<i>Best Practices for Prosecution.....</i>	<i>31</i>
Vertical Prosecution.....	31
Meeting With the Victim	31
Victims Who Choose Not to Participate in Prosecution.....	32
Collaboration With Law Enforcement	33
Charging Decisions	33
Preparing the Victim and Family	33
Protecting Victim Safety.....	34
Initial Court Appearances or Pre-Trial Hearings	34
Plea Negotiations	35
Trial Preparation	35
Jury Selection	35
Sentencing.....	35
SPECIAL CONSIDERATIONS.....	37
<i>Elderly Victims</i>	<i>37</i>
Mandatory Reporting	38

<i>Cultural Competency</i>	<i>39</i>
<i>Male Victims of Sexual Assault.....</i>	<i>39</i>
<i>Victims With Disabilities.....</i>	<i>40</i>
<i>Sexual Assault in Communities of Color.....</i>	<i>41</i>
<i>Lesbian, Gay, Bisexual, and Transgender Victims</i>	<i>41</i>
VICTIMS’ COMPENSATION PROGRAM	43
CONCLUSION	44
<i>Appendix A Crisis Center List</i>	<i>47</i>
<i>Appendix B County Attorney’s Offices/Victim Witness Programs</i>	<i>48</i>
<i>Appendix C New Hampshire Bureau Of Elderly And Adult Services</i>	<i>49</i>
<i>Appendix D Prosecution Resource List.....</i>	<i>50</i>
<i>Appendix E Alcohol/Drug Facilitated Sexual Assault Resources</i>	<i>51</i>
<i>Appendix F Role Of The First Responder In Sexual Assault Investigations.....</i>	<i>52</i>
<i>Appendix G Victim Response To Sexual Assault - Crisis Stage</i>	<i>53</i>
<i>Appendix H Post Rape Trauma Syndrome: Emotional Stages Common To A Sexual Assault Victim</i>	<i>54</i>
<i>Appendix I Symptoms Reported By Sexually Assaulted Patients</i>	<i>55</i>
<i>Appendix J Sexual Assault Fact Sheet.....</i>	<i>57</i>
<i>Appendix K Search Warrant Cheat Sheet For Communication Devices</i>	<i>58</i>
<i>Appendix L Sample Preservation Order</i>	<i>60</i>
<i>Appendix M Cell Phone Retention Chart</i>	<i>61</i>
<i>Appendix N Corroboration Chart</i>	<i>62</i>
<i>Appendix O Sexual Assault/Abuse Forensic Medical Follow-Up Examination Voucher Form</i>	<i>65</i>
<i>Appendix P New Hampshire Crime Victim Bill Of Rights.....</i>	<i>66</i>

NEW HAMPSHIRE ADULT SEXUAL ASSAULT PROTOCOL COMMITTEE

Chair: Sandra Matheson, Director
Office of Victim/Witness Assistance
Attorney General's Office

Barbara Belmont
Victim/Witness Advocate
Belknap County Attorney's Office

Detective Jonathan Lehto
Nashua Police Department

Kathy Beebe, Director
Sexual Assault Support Services

Lindsey Maziarz
Manager of Client Services
Sexual Assault Support Services

Tracy Culberson, JD

Chief Ryan Murdough
Henniker Police Department

Heather Gunnell, Program Director
NH SANE Program

Sergeant Jill Rockey - Retired
NH State Police

Lieutenant Jill Hamel
NH Police Standards and Training Council

David Rotman, JD
Assistant County Attorney
Merrimack County Attorney's Office

Nancy Harris
Victim/Witness Director
Strafford County Attorney's Office

Lara Saffo, JD
County Attorney
Grafton County Attorney's Office

Kathleen Kimball, Coordinator
NH SART Program,
Attorney General's Office

Danielle Snook
Program Specialist
Attorney General's Office

PREFACE

Sexual violence in our society has no boundaries. It crosses all socio-economic, age, gender and racial lines. It occurs in both New Hampshire's urban and rural communities. Sexual violence has a tremendous impact on a victim's life, affecting them physically and emotionally. Coping with the assault and requesting assistance can be extremely traumatic and challenging for a victim. The system's response to reports of sexual assault is critical to minimize further trauma to the victim, to assist in their healing and ensure successful prosecution of sexual offenders.

Research data released in the report, "*The Reality of Sexual Assault in New Hampshire*" found that there is a lack of consistent collaboration among the various disciplines responding to adult female sexual assaults. It also found that variability in training and expertise in handling sexual assault cases contributes to how the system responds to victims. In an effort to address these findings, New Hampshire encourages the use of Sexual Assault Resource Teams (SARTs) comprised of professionals from different disciplines working collaboratively to improve system responses to victims, holding offenders accountable for their behavior and increasing successful prosecution rates for adult cases of sexual assault.

Adult sexual assault is the most under-reported crime in our country. Approximately 60% of adult sexual assaults are not reported to law enforcement. In the United States, 1 in 6 women and 1 in 33 men reported experiencing an attempted or completed rape at some time in their lives¹. In New Hampshire, approximately 23% of women have been the victim of a sexual assault.² Some victims choose not to report due to embarrassment, fear of the offender, concern they will not be believed or that they will be blamed for the assault. Others may distrust the investigative, prosecutorial, and judicial systems.³

The primary objectives of this document are:

- To minimize the physical and psychological trauma to the victim of sexual violence by responding in a compassionate, sensitive and non-judgmental manner
- To establish best practice guidelines for the multi-disciplinary response to adult sexual assault cases and the thorough investigation of the crime
- To ensure the opportunity for immediate and comprehensive medical care to the sexual assault patient
- To hold offenders accountable by keeping the investigation focused on their behavior and actions

For the purpose of this protocol, all victims will be referred to as "she," since the majority of victims are female. However, it is recognized that sexual assault is a crime that also affects males.

¹ RAINN (*Rape, Abuse and Incest National Network*, (<http://www.rainn.org>); U.S. Department of Justice. 2005 *National Crime Victimization Study*. 2005

² Tjaden P, Thoennes N. Extent, nature, and consequences of intimate partner violence: findings from the National Violence Against Women Survey. Washington (D.C.); Department of Justice (US); 2000. Publication No.: NCJ 181867. Available from <URL:www.ojp.usdoj.gov/nij/pubs-sum/181867.htm>

³ Mattern, G., Banyard, V., Bujuno, L., Laflamme, D., Moynihan, M. & Potter, S. (2007).

HISTORY OF THE NEW HAMPSHIRE SEXUAL ASSAULT PROTOCOL PROJECT

In 1988, the New Hampshire Legislature passed a law, which made the State responsible for the payment of forensic medical examinations of sexual assault victims who do not have insurance coverage NH RSA 21-M:8-c. It also authorized the New Hampshire Attorney General's Office to establish a standardized sexual assault protocol and evidence collection kit to be used by all examiners and hospitals in the State.

The New Hampshire Attorney General's Office formed the Sexual Assault Protocol Committee representing the medical, legal, law enforcement, victim advocacy and forensic science communities, to establish a New Hampshire protocol and kit. The first protocol, ***Sexual Assault: A Protocol for Forensic and Medical Examination***, was completed in 1989 and was introduced at regional trainings to over 1,500 professionals. Since then, the protocol has been continually revised and updated to include significant changes in forensic evidence collection. The latest version can be found at ***An Acute Care Protocol for Medical/Forensic Examination, 2011 Edition***. Advocates are trained on sexual assault medical examinations and the criminal justice system, allowing advocates to educate sexual assault victims so that they are aware of their options and can make informed decisions.

In 2002 ***Sexual Assault: A Protocol for the Response and Investigation of Adult Sexual Assault Cases*** was introduced. This document is an updated version of that protocol. The Committee encourages duplication and distribution of this protocol to further enhance and standardize investigations of adult sexual assault cases and to reduce the trauma experienced by victims.

For the handling of investigations of child sexual abuse cases, please refer to the ***Attorney General's Task Force on Child Abuse and Neglect Protocol***.

PURPOSE STATEMENT

It is New Hampshire's expectation that all disciplines involved in the response to adult sexual assaults will work collaboratively using a victim-centered approach.

POLICY

This protocol represents a model - an ideal - for New Hampshire's handling of adult sexual assault cases. It was developed with the recognition that an individual agency's ability to follow the recommended guidelines, will depend, to some degree, on available resources. This protocol defines a standard to which all agencies involved in the handling of these cases should strive. It is not intended to create substantive rights for individuals. **Consistent compliance with the procedures set forth in this protocol will greatly increase the effectiveness of the State's response to adult sexual assault cases.**

SEXUAL ASSAULT RESOURCE TEAM (SART) MODEL

In an attempt to address the various challenges surrounding crimes of adult sexual violence, the New Hampshire Attorney General's Office began a statewide initiative in 2010 to develop and implement Sexual Assault Resource Teams (SARTs) in all ten counties. A SART is a multi-disciplinary team of professionals with core members representing the various disciplines - medical, victim advocacy, law enforcement, and prosecution - that respond to an allegation of sexual assault. Additional members may include, but are not limited to, representatives from elderly and adult services, mental health agencies, sex offender treatment programs, probation and parole and the forensic laboratory.

SARTs improve the quality of investigations through increased training opportunities, development of investigative skills, improved evidence collection and increased understanding of victim trauma which may lead to improved victim interviews, resulting in more effective prosecutions.

By meeting regularly, SART members learn about the different roles and responsibilities of the participating disciplines and determine what the values, commitments and goals will be in their specific community. Documents generated to reflect these ideals can be amended over time, as necessary. Team members of a Resource Team continue to function under their agency policies, procedures and protocols, but develop a Memorandum of Understanding (MOU), which describes how the various disciplines operate within the SART.

SARTs assess how the various disciplines respond to victims. An assessment may serve to reinforce effective collaborative responses to sexual assault or may identify areas in need of improvement. When SARTs take steps to improve the victim-centered approach, it leads to more victims coming forward and enhances offender accountability.

The goal of a SART is to work collaboratively to improve the response to victims, focus on the offender's, rather than the victim's, behavior and enhance the rate of successful prosecution.

SARTs play a significant role in promoting public safety in their communities by working in a coordinated team approach. In addition to meeting victims' needs and enhancing the quality of investigations, SART members can also become involved in educating their communities about the services that are available for the intervention and prevention of sexual violence.

THE LAW

A victim of sexual assault can be of any age. This protocol addresses adult victims, individuals 18 years of age and older. For victims 17 and younger, refer to the Attorney General's [Child Abuse and Neglect Protocol, 2008](#).

SEXUAL ASSAULT AND RELATED OFFENSES - DEFINITIONS

"Rape" is not a legal term in New Hampshire. The crime is classified as "Sexual Assault". Under RSA 632-A, there are three levels of sexual assault:

Aggravated Felonious Sexual Assault ("AFSA") ([RSA 632-A:2](#)) is defined as sexual penetration, however slight, into any opening (vagina, mouth or anus) under certain circumstances including but not limited to:

- When at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act.
- When the actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength.
- When the victim is physically helpless to resist.
- When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.
- When the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future.
- When the victim submits under circumstances involving false imprisonment, kidnapping or extortion.
- When the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance which mentally incapacitates the victim.
- Or under other aggravating circumstances defined in [RSA 632-A:2](#).

MYTH: Sexual assault is motivated by sexual desire.

FACT: Sexual assault is a crime of violence, motivated by anger and the desire for power and control.

AFSA is a felony punishable by an enhanced penalty of up to 10 to 20 years in the state prison.

Felonious Sexual Assault ("FSA") ([RSA 632-A:3](#)) includes the offense often referred to as the "statutory rape law," which involves sexual penetration of a person between the ages of 13 and 16 when the age difference between the actor and the other person is 4 years or more. The legal age of consent in New Hampshire is 16. It also applies when a person is in a position of authority over another and coerces that other person to engage in sexual contact with the actor or with him/herself in the actor's presence.

Felonious Sexual Assault includes, but is not limited to:

- When the defendant subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA 632-A:2 (the aggravated felonious sexual assault statute mentioned above).
- Engages in sexual contact with the person when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:
 - When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or
 - When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

Felonious Sexual Assault is a class B felony punishable by 3.5 to 7 years in the state prison.

Sexual Assault (RSA 632-A:4) covers a variety of conduct, including, but not limited to, sexual contact with a person 13 years or older under any of the aggravating circumstances defined in RSA 632-A:2. A person may also be charged with Sexual Assault if they cause another person to engage in sexual contact with the actor or with him/herself, when the actor is in a position of authority over the other person, as defined in the statute.

Sexual Assault is a class A misdemeanor punishable by incarceration for up to one year in the House of Corrections.

There may be other potential charges in a case of sexual assault including, but not limited to:

- **Strangulation** (RSA 632:2)
- **Kidnapping** (RSA 633:1)
- **Criminal Restraint** (RSA 633:2)
- **False Imprisonment** (RSA 633:3)
- **Stalking** (RSA 633:3-a)
- **Trafficking in Persons** (RSA 633:7)
- **Endangering the Welfare of a Child or Incompetent Adult** (RSA 639:3)

Sexual assault is common in relationships where there is other verbal, emotional or physical violence. Professionals should be aware of this and include questions about domestic violence in sexual assault investigations. The statutes that apply to domestic violence crimes apply in cases of sexual assault by a family or household member of the family. For more specific information refer to:

[**Law Enforcement Model Protocol for Police Response to Domestic Violence Cases \(2004\)**](#)

[**Stalking Protocol: A Model for Law Enforcement \(2009\)**](#)

VICTIM REPORTING

Most adult sexual assault injuries are not required to be reported to the police, and it is the victim's decision whether or not to report the crime to law enforcement.

The current rules adopted under RSA 631:6 are as follows:

- If the **victim is 18 years of age or older**, and has **received a gunshot wound or other serious bodily injury**, the injuries **must be reported** to law enforcement.
 - As defined in RSA 161-F:43 "serious bodily injury" means any harm to the body which causes or could cause severe, permanent or protracted loss of or impairment to the health or of the function of any part of the body.
 - **Exception:** Under Federal law, records of the identity, diagnosis, prognosis or treatment of a patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment or rehabilitation which is conducted or directly or indirectly assisted by any federal agency are confidential and may be disclosed only pursuant to a court order.
- **Elderly and incapacitated adults** are at extremely high risk for experiencing a sexual assault. New Hampshire has a **mandatory reporting law**. **Any person who has reason to believe that any incapacitated adult falling under this statute has been subjected to physical abuse, neglect or exploitation must report the abuse to their local *District Office of the New Hampshire Bureau of Elderly and Adult Services* (Appendix C). For more information, call (during business hours) the **Bureau of Elderly and Adult Services at 1-800-322-9191 or 603-271- 3610**. Please refer to the section on Elderly Victims in this protocol for additional information.**

*If the victim is 18 years of age or older and has **not** sustained a gunshot wound or serious bodily injury, it is the victim's decision whether or not to report the crime to law enforcement.*

LAW ENFORCEMENT RESPONSE

A thorough investigation of an adult sexual assault case is essential to hold offenders accountable. Crimes of sexual violence should be recognized as “critical incidents” and victims should be treated in a respectful and non-judgmental way. Without the full cooperation of the victim, it is usually impossible to successfully investigate and prosecute the crime.

Sexual assault investigations require sensitive, objective, trained and experienced investigators, so that the complete details of the crime may be obtained and all possible evidence properly collected⁴. Officers with limited experience should contact the County Attorney's Office as soon as possible after learning of the sexual assault to obtain guidance and resources regarding how to proceed with the investigation. Depending on each county's practice, the County Attorney's office may have an on call prosecutor available after hours.

In many, if not most, sexual assaults there are no eye witnesses and no physical evidence. This does not mean the case cannot be proven beyond a reasonable doubt. In fact, New Hampshire law (NH RSA 632-A:6) states a victim's testimony need not be corroborated. Notwithstanding this statute, it is important for investigators to look for corroboration in the form of:

- Medical evidence
- Physical evidence
- Witnesses who may have seen or heard something around the time of the incident
- Witnesses the victim and/or suspect may have talked to after the assault
- Focus on the suspect's behavior and any grooming behavior he engaged in to make the victim vulnerable and/or isolated prior to the assault. What are the power dynamics in the relationship?

THE ROLE OF LAW ENFORCEMENT

The role of law enforcement, in cases of sexual assault, is to ensure the immediate safety and security of the victim, to arrange for medical treatment, to obtain information and to preserve evidence.

Law enforcement's primary responsibility is to determine if there has been a sexual assault that meets the criteria for a crime as defined by New Hampshire law.

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.

*According to the International Association of Chiefs of Police (IACP), “**The determination that a report of sexual assault is false can be made only if the evidence establishes that no crime was committed or attempted.**”⁴*

⁴ IACP Concepts and Issues Paper, *Investigating Sexual Assaults*, July 2005.

A 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 effects of trauma on an individual. Trauma can effect 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. For more information on trauma, please see [Appendix G](#), [Appendix H](#), and [Appendix I](#).

Law enforcement understands the impact on 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."⁵ Sexual assault cases should be treated as "critical incidents".

Common reported reactions following a "critical incident" may include, but are not limited to:

- Anxiety
- Fear for the safety of the victim or their loved ones
- Preoccupation with the stressful event
- Flashbacks in which the individual mentally re-experiences the event
- Short and long term physical symptoms including muscle aches, headaches and 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

Law enforcement must understand 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

The initial victim statement is typically taken upon first contact with the victim. This initial

MYTH: Real sexual assault only happens when a stranger attacks a woman.


FACT: Most sexual assaults are committed by someone known to the victim.

⁵ Kulbarsh, P. Critical Incident Stress: What is expected and when to get help. Posted online on Officer.com.

verbal statement provided by the victim is an opportunity for law enforcement to obtain basic information and establish the location and elements of the crime. This initial information provided by the victim is **not** to be viewed as 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. (Refer to The First Responder Minimal Fact Interview section.)

Best practice for obtaining this initial statement from a victim of adult sexual assault **SHOULD NEVER BE A WRITTEN STATEMENT**. In a victim-centered response, law enforcement should be aware of the impact of trauma on a victim and how it may affect memory and the ability to give details of their experience. Some victims may find it difficult, if not impossible, to write down what happened to them. Requiring sexual assault victims to write a statement may lead to timeline gaps, minimization of details and the appearance of inconsistencies.

Should the case proceed to prosecution, an initial, incomplete written statement may be used against the victim and increase the long term trauma they may experience. If information is verbally exchanged and thoroughly documented by law enforcement, these challenges may be avoided. In addition, some victims may choose not to follow through with their report to law enforcement if they are required to provide a written statement because it is so difficult for them. In these situations, there is no offender accountability and the initial criminal justice response is not victim-centered.



*The initial
priority
should be the
safety of the
victim.*

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 crisis center advocate (Appendix A). The crisis center advocate should be contacted whether or not a victim chooses to have a sexual assault exam. **All sexual assault victims should be encouraged to seek medical attention as soon as possible.**

THE FIRST RESPONDER

In New Hampshire, it is recognized that law enforcement agencies have different resources. Some agencies may have first responders who will turn the investigation over to a detective. Other agencies have a first responder who follows the case through the entire investigation. Regardless of the extent of an officer's role in the investigation, there are responsibilities that apply to all first responders. (Appendix F)

Initial Responsibilities:

- Intervene in any in-progress assaults and separate all parties
- Detain or apprehend the suspect
- Call for emergency medical care for the victim, if necessary

Conducting a Minimal Facts Interview:

- *What happened?*
- *Who did it?*
- *Where are they now?*
- *Where did it start and where did it end?*
- *Were any weapons shown or threatened?*
- *Identify any potential witnesses, evidence and additional scenes.*

- Request additional personnel to respond, as appropriate

Additional Priorities:

- Attend to the victim. Use appropriate language and sensitivity for the type of investigation being conducted.
- Remove the victim to a neutral, safe place away from the scene.
- Be careful not to stigmatize the victim by speaking loudly or calling unnecessary attention to the victim in any way.
- Recommend all victims to seek medical treatment. Inform the victim that there could be immediate and long-term health concerns that result from the assault and that whether or not they want evidence collected, they can seek medical care.
- If the victim wants to have a medical/forensic (SANE) exam, preserve evidence on the victim by requesting they not shower, wash up, etc. until evidence can be collected by a SANE or other trained professional.
- Secure and protect the scene(s) until additional personnel arrive to assist.

The First Responder must understand and their report must clearly reflect, that the minimal facts interview is not intended to be a comprehensive or final interview with the victim.

First Responders Should:

- Attempt to determine if a crime occurred during the initial contact with the victim
- Establish the elements of the crime(s)
- Contact the local crisis center for an advocate to respond for the victim
- Explain to the victim what will happen as the process continues
- Document officer involvement clearly and in detail as soon as possible

NOTE: For court purposes, the SANE or medical provider can adequately present all relevant facts regarding the exam.

ROLE OF LAW ENFORCEMENT DURING THE MEDICAL/FORENSIC EXAM

The victim should always be allowed to determine who is present during the medical/forensic exam. The law enforcement officer should not be present when the SANE or other medical care provider is taking a medical history of the assault or conducting the exam.

CONDUCTING A COMPREHENSIVE INTERVIEW/ASSAULT HISTORY

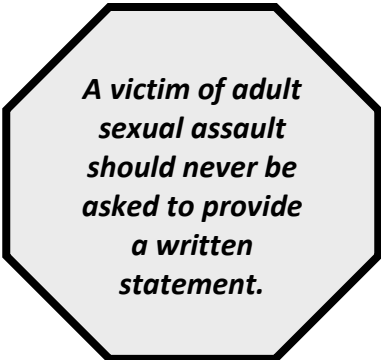
The comprehensive interview should be performed by law enforcement with specialized training in sexual assault interviews and investigations whenever possible. The interview should take place *after* the medical-forensic exam has been completed. In New Hampshire, best

practice would allow for a crisis center advocate to be present during the interview, if the victim so desires. The role of the crisis center advocate is to provide support to the victim, not to participate in the actual interview process.

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 clear and concise details about the assault.

This interview presents an opportunity for the victim to provide additional information she 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



A victim of adult sexual assault should never be asked to provide a written statement.

Offenders often target victims whom they perceive as suffering from a lack of credibility, especially victims who have a previous criminal history, abuse alcohol and/or drugs or who have physical, cognitive 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:

- Acknowledging the impact of trauma on the victim during the interview
- 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 before it is asked
- 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

WHENEVER POSSIBLE, A COMPREHENSIVE, AUDIOTAPED INTERVIEW OF THE VICTIM SHOULD BE CONDUCTED BY A WELL –TRAINED AND EXPERIENCED INVESTIGATOR.

CONFRONTING DEFENSE CHALLENGES DURING THE VICTIM INTERVIEW

In some instances, investigators may be able to identify possible defenses that might be raised during the early stages of the investigation should the case be prosecuted. These might include

consent, denial by the suspect or the identity of the suspect. When learning of the details of the assault, a potential defense may become apparent. This defense may be addressed through various lines of questioning. It is important for investigators to recognize that certain questions may result in victims feeling like they are being blamed. These questions should be asked with sensitivity. The purpose for asking these questions should be explained.

The Consent Defense - “It was consensual”

The defense of consent is always a possibility if the victim and suspect know each other. Accordingly, a comprehensive history regarding the relationship between the parties and the specific facts of the incident should be obtained. Because the issue of prior sexual contact may be admissible, limited inquiry into this area may also be necessary. Due to the sensitive nature of this topic, discretion is advised.

When interviewing the victim, the following questions should be considered:

- What is the victim *able* to tell about her experience?
- At what point did the suspect’s behavior change?
- If force was involved, what was it and how was it applied on the victim? How did it make the victim feel?
- Describe specific threats, tone of voice used and any gestures and/or looks given to the victim. How did the victim react to this?
- What were the victim’s thoughts and feelings during the assault?
- What were the sensory details (sight, hearing, touch/feel, taste) during the assault?
- Describe the suspect’s physical size and strength in comparison to the victim and why the victim may not have been able to physically resist.
- Describe the location of the assault, including but not limited to the surrounding area (isolated, near a noisy party, etc.)
- Describe the suspect’s actions, statements and demeanor following the assault.
- Obtain any information the victim can provide that is inconsistent with consensual behavior.
- What was the victim experiencing (thinking, feeling) the day after the assault? A week after? Currently?

*It should be remembered that a victim’s disclosure is not an **event** – it is a **process**.*

The Denial Defense - “It didn’t happen”

When a sexual assault is charged, a critical element of the crime that must be proven is that a sexual act occurred (contact or penetration) between the victim and the suspect.

Investigators should be prepared to deal with suspects who can be both persuasive and adamant that sexual contact did not occur. In these cases, it is important for an investigator to

obtain as many corroborating details of the victims account as possible. Investigate thoroughly and document/collect all available evidence.

The Identity Defense - “It wasn’t me”

This defense is usually used in cases where the victim and suspect do not know each other. The suspect can easily claim that “It wasn’t me.” The victim interview in this type of case should focus on:

- Establishing a detailed timeline in order to combat an alibi defense.
- Obtaining as much information as possible about the suspect’s method of operation in order to compare it to other available information (i.e. VICAP, Fusion Centers, sex offender registries, etc.).
- Obtaining a complete physical description of the suspect, including sensory descriptions like smell, taste and feel, in order to make a suspect identification.

The investigative strategy should focus on DNA or trace evidence that can be collected to connect the suspect to the victim and to the evidence.

RECANTATION

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 participates in the criminal justice system and understands that **recantation of one or more aspects of a prior statement does not necessarily mean false reporting**. Various influences effect a victim’s willingness to participate and/or recant. Among those influences are:

- A victim’s feeling of embarrassment, fear, and shame
- A victim’s desire to put the assault behind them, avoid answering questions, avoid repeating the story or facing the suspect in court
- Pressure from the 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

POLYGRAPH POLICY

Since the mid 1990’s, the New Hampshire Attorney General’s Office has been the recipient of significant amounts of federal grant funding each year from the Violence Against Women Act (VAWA). This money has been distributed statewide to provide direct services to victims, to law enforcement agencies, prosecutors and to the courts to assist in the efforts to end violence against women. VAWA has a mandate that **strictly prohibits any adult, youth or child victim of an alleged sexual offense from being asked to take a polygraph test**. Failure to abide by this policy may result in New Hampshire losing VAWA funding.

In New Hampshire, polygraph test results are not admissible in court. However, polygraph testing is considered to be a valuable investigative tool when dealing with suspects and should be considered whenever appropriate. Investigators who consider using polygraph for suspects should ensure that a thorough investigation has been done in the case to that point. They should also meet with the polygraph examiner to review the information and discuss the questions to be asked prior to the test being given.

CHECKLISTS

These checklists are meant to bring attention to several priority responsibilities for various individuals involved in the response to an adult sexual assault report. They are not intended to exclude any responsibilities that may be identified due to unique circumstances presented during a specific report. These checklists are to be utilized as best practice guidelines.

Dispatcher Checklist

- Confirm victim's safety and medical needs; activate Emergency Medical Services as needed
- Check safety concerns (weapons shown, threatened or used, injuries to victim or suspect)
- Check special language/access needs
- 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 articles or furniture the suspect may have touched, etc. while waiting for officer to arrive
- If a SART trained officer is on duty, the SART trained officer will be dispatched to the scene. If 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

First Responder Checklist

- Re-evaluate safety for the victim and any other person at potential risk
- Activate emergency medical services as needed or encourage the victim to seek medical care
- Call a crisis center advocate
- Identify the crime and the scene(s)
- Establish jurisdiction
- Preserve evidence /secure the scene(s)
- Determine if the suspect is known and their possible location(s)
- If the Responding Officer is not SART trained, contact a SART trained officer
- If the victim is an incapacitated adult, it is **mandatory** to report to the NH Bureau of Elderly and Adult Services at 1 (800) 949-0470
- Do not conduct a comprehensive interview of the victim; seek confirmation of the crime, scene and suspect information (Please refer to Conducting a Minimal Facts Interview, page 10)
- If a SART trained officer has a delayed response, work with the crisis center advocate to facilitate transportation to the hospital
- Remain with the victim until a SART trained officer arrives and the information is transferred to the investigating officer
- Promptly complete the initial incident report

Investigation Checklist

- Re-evaluate safety, activate Emergency Medical Services as needed
- Verify collaborative response has been initiated (crisis center advocate, SANE)
- Ascertain what disclosure has already been made and to who (initial officer, friend, family member)
- Conduct initial victim statement – short interview to determine evidence collection as requested by the victim – crisis center advocate can be present during initial and comprehensive statements (Please refer to Conducting a Minimal Facts Interview, page 10)
- Follow-up with comprehensive/complete victim interview; generally takes place after the SANE exam
- Coordinate audio/video taped statements in accordance with County Attorney's guidelines
- Determine need for search warrant(s); secure and execute if necessary
- Photograph and collect evidence from the scene(s)
- Conduct witness interview(s) – including potential disclosure witnesses
- Conduct and record suspect interview(s)
- Promptly and completely document case
- Conduct comprehensive review of case prior to sending case to the County Attorney – including reviewing all reports, evidence, obtain and review SANE documentation, statements, etc.
- Be available to provide case follow-up in consultation with the prosecutor

Evidence Checklist

- **All Sexual Assault Evidence Collection Kits, including Anonymous Kits, MUST be transported to the State Forensic Laboratory as soon as possible.**
- Transport appropriate evidence for analysis to Forensic Lab as soon as possible
- Collect suspect evidence (ie. DNA, wound and body fluid evidence, clothing or other items that can be corroborated by the victim's statement)
- Ensure photographs and/or digital images, videos and/or diagrams are included in the case file

DRUG AND ALCOHOL FACILITATED SEXUAL ASSAULT

A drug or alcohol facilitated sexual assault occurs when a person is unable to consent to sexual activity because they were incapacitated due to drugs or alcohol. Ingestion can be voluntary or without their knowledge. Alcohol is by far, the most commonly used substance in these cases.

Victims of drug-facilitated sexual assault may experience confusion, drowsiness, reduced inhibitions, impaired judgment and impairment of their motor skills, among other symptoms. Following the assault, victims may:

- Think they have been assaulted, but are not sure
- Feel their level of intoxication does not match the amount of alcohol they consumed
- Have unexplained injuries
- Report “feeling like I’ve had sex but I don’t remember it”
- Have unexplained loss or re-arrangement of clothing

This confusion or uncertainty leads to victims of drug/alcohol facilitated sexual assaults being less likely to report to law enforcement⁶ Another significant challenge is the short time it takes for the ingested substance to be eliminated from the body. **It is very important for medical providers to request that victims give their informed consent for toxicology samples to be collected as soon as possible in any case of a suspected drug/alcohol facilitated sexual assault.** Samples should be collected even if a victim is undecided at the time about reporting to law enforcement. If the potential evidence

MYTH: Women “cry rape” after consenting to sex and later changing their minds.

FACT: False accusations of sexual assault have been estimated at a rate of 2% to 8%*. It is far more common for victims of sexual assault not to report the crime to anyone.

*EVAW International “MAD” Study, The Boston Study (David Lisak et al., British Study (Kelly, Lovett & Regan, 2005), Australian Study (Heenan & Murray, 2006)

⁶ Kilpatrick, Dean, Dean, PhD, et al. Drug-facilitated, Incapacitated and Forcible Rape: A National Study (2007) and the National SART Toolkit, 2011, Office for Victims of Crime & Office for Justice Programs

is not collected during the short window of time, it will not be available later when the victim decides to make the report. Urine samples allow for longer detection times than blood samples.

Detection times vary depending on:

- The type and amount of drug ingested
- The victim's body size and metabolism rate
- If the victim has food in their stomach
- If the victim has urinated since the assault

In a victim-centered approach to cases where drugs and/or alcohol are involved, it is important to remember that the sexual assault is about one person exercising control over another. Victims are chosen because they are “easy targets” who may be unable to resist the sexual advances and who are unable to clearly remember the incident afterwards. The victim should be told that they are not responsible for the sexual assault but rather the suspect is responsible for their behavior.

Victims should also be encouraged to be truthful about their drug and/or alcohol use when making a report. A victim's voluntary use of any illegal substance should not be grounds for an arrest, nor should it be a factor when determining the validity of the sexual assault. The victim's truthfulness about drug use may add to her credibility.

For additional resources on drug/alcohol facilitated sexual assaults, see [Appendix E](#)

VICTIM INTERVIEWS IN DRUG/ALCOHOL FACILITATED SEXUAL ASSAULTS

Victims of drug/alcohol facilitated sexual assaults may suffer from blackouts and/or memory gaps making it extremely difficult to conduct a detailed interview. The investigator should be patient and avoid being judgmental. It is also important to focus on the suspect's behavior and the evidence. Questions for victims should include:

- What prescription or over the counter medications is the victim taking?
- What recreational substances did the victim voluntarily consume?
- How experienced is the victim with alcohol and drugs?
- How much alcohol was consumed by the victim? By the suspect?
- Who was the victim with?
- How did the victim leave the bar or the party? Were they acting “normal” at that time?
- What is the victim *able* to tell about what their experience?
- What does the victim remember thinking, seeing, hearing, tasting or feeling (body sensations)?
- Try to develop a timeline of the event. This can also assist in determining what type of drug may have been given to the victim.
- What was the victim thinking/feeling after (next day, week, currently) their experience?

TECHNOLOGICAL CONSIDERATIONS IN ADULT SEXUAL ASSAULT CASES

Technology plays a significant role in today's society. This is particularly relevant when investigating adult cases of sexual violence. It is important for law enforcement officers to understand the prevalence of the use of the Internet, email, or related digital electronic communication devices to annoy, alarm, or threaten a victim. Technology often captures evidence of criminal behavior that is helpful in the investigation. It should be properly seized and searched in a timely manner.

The anonymity and reach of the Internet, and the difficulties in capturing, recording, and verifying digital evidence combine to create new challenges to law enforcement agencies trying to prevent and detect the crime and apprehend the criminals. In particular, the "expectation of privacy" afforded to all participants of on-line communication often makes it difficult to connect the actual perpetrator with his/her cyber activity.

INVESTIGATIVE METHODS

Perpetrators have employed various methods of Internet communication to harass their victims. The more common methods of electronic communications that law enforcement need to recognize and document in their investigations include:

- **E-mail:** A method of communication that allows an individual to transfer text, picture, video, and audio files to another person's electronic mailbox.
- **Text message:** A written communication between user's cell phones.
- **Social Networking:** An online service platform, or site that focuses on building and reflecting of social networks or social relations among people, who, for example, share interests and/or activities
- **Hand held devices:** Smartphones or tablets with Internet capabilities.
- **Newsgroup:** A newsgroup is an Internet-based discussion about a particular topic.
- **Message boards/guest books:** A method of communication similar to a newsgroup in that its contents amount to comments about a particular topic. Internet sites often have guest books where visitors can enter their names and make comments about the site.
- **Internet sites:** A method of communication that involves posting information to a unique uniform resource locator (URL). Internet users later can retrieve this information by directing their Web browser to the corresponding URL. An Internet site becomes the method of harassment when an abuser posts information or images on a Web page about an individual that causes them to become alarmed or frightened or talks about the crime under investigation.
- **Chat rooms:** A method of communication that enables real-time text, audio and video-based group interaction. Chat rooms, or chat channels, usually are organized around specific topics of conversation.

- **Instant messaging:** A method of communication that enables real-time text, audio, and video based interaction between two individuals over the Internet or a computer network. Users program their instant messenger software to notify them when designated individuals log on to the network.

TECHNOLOGICAL EVIDENCE COLLECTION

Computers and cell phones are a significant source of evidence in many contemporary abuse cases. Law enforcement can seize computers, cell phones, or other electronic devices used in the crime for forensic inspection.

Law enforcement should seize any electronic device that contains evidence that includes text messages, emails and videos either by consent or search warrant. Whenever possible, Cellebrite or Paraben may be used to extract this data from the device by seeking assistance from a trained

forensic examiner. It should be noted however, that data is not always able to be extracted by using Cellebrite and Paraben and the Investigator(s) should be prepared to retrieve the data manually.

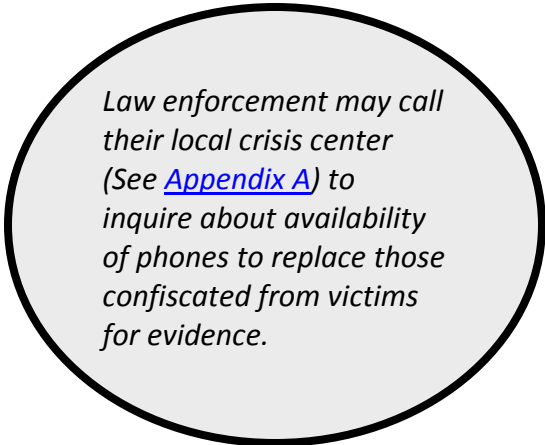
Investigators should also communicate with their prosecutors regarding what evidence will be required regarding these types of technology related cases.

Preservation orders must be used to preserve relevant data and information (*See Appendix L*) and followed up with the appropriate legal process, such as a 7:6-b, grand jury, or search warrant (*See Appendix M*) to capture data and content. Important pieces of evidence may include subscriber information, IP addresses, call

logs, text/email content, user names and passwords, cell tower and location data. Consultation with the County Attorney's Office, the Attorney General's Office or the US Attorney's Office for guidance is appropriate.

Before seizing a computer and collecting evidence from a computer or other electronic device, it is important to have an understanding of how forensic science is applied to computers or other devices. Investigators should collect, document, and preserve digital evidence in a way that will facilitate the reconstruction and prosecution processes. Also, investigators should become intimately familiar with all available digital evidence, in order to be able to know what to look for in such cases.

The New Hampshire State Police Forensic Laboratory (271- 3573) should be contacted for assistance if there are specific questions about cyber evidence collection.



Law enforcement may call their local crisis center (See [Appendix A](#)) to inquire about availability of phones to replace those confiscated from victims for evidence.

ANONYMOUS REPORTING PROCEDURES

Some victims who present themselves to the emergency department for medical/forensic treatment may be undecided over whether to report the crime to law enforcement because of the trauma they have experienced. The anonymous reporting procedure ensures that victims of sexual assault, who are undecided over whether or not to report the assault, have the opportunity to have evidence collected and preserved that, would otherwise be destroyed through normal activity.

*The Anonymous Kit **CANNOT** be completed on anyone under the age of 18*

The evidence is collected in accordance with the *New Hampshire Sexual Assault: An Acute Care Protocol for Medical/Forensic Evaluations (Sixth Edition, 2011)*, except that the identity of the patient is not documented on any of the specimens or paperwork provided in the Sexual Assault Evidence Collection Kit. A unique serial number is provided on the end of each Evidence Collection Kit box and this serial number is used in place of the victim's name on all specimens and paperwork.

- Once the examination is complete, and the victim is discharged, the examiner will turn over the anonymous kit (the same procedure as for other kits) to the law enforcement agency in the jurisdiction where the crime occurred, if the crime occurred in New Hampshire.
- If the crime occurred outside of New Hampshire or the local law enforcement agency in the jurisdiction where the crime occurred cannot pick up the kit, the examiner will turn over the anonymous kit to the New Hampshire State Police.
- **Best practice calls for law enforcement to respond to the hospital as quickly as possible following a call to retrieve a kit. Most hospitals do not have secure refrigerators to hold this evidence. Therefore, the examiner must maintain possession of the kit for chain of custody purposes until it can be turned over to law enforcement.**
- **Law Enforcement will then transport the evidence to the New Hampshire State Forensic Laboratory, just as they would in a reported case where the identity of the victim is known.**

VERY IMPORTANT: ALL KITS, INCLUDING ANONYMOUS KITS, SHOULD BE TRANSPORTED TO THE STATE FORENSIC LABORATORY AS SOON AS POSSIBLE AND SHOULD NOT BE KEPT AT THE POLICE DEPARTMENT.

The anonymous kit is kept in storage at the State Forensic Laboratory for **60 days** from the date of the medical/forensic examination. If the victim ultimately chooses to report the crime to law enforcement, the kit serial number will be matched to the victim so that the processing of evidence may begin.

If the victim has not reported the crime to law enforcement during this time period, the evidence will be returned to the submitting law enforcement agency for final disposition. ***It is strongly recommended that the returned kits be stored in evidence at the law enforcement agency until the statute of limitations for the offense has run out.***

Victims may maintain their anonymity with law enforcement until such time as they decide to report the crime.

It is important to recognize that any crime victim has the right to report the crime at any time following the commission of that crime. Whether the crime can be prosecuted is a matter that will be determined within the criminal justice system, based on a multitude of factors (i.e. statute of limitations, existence of supporting evidence).

VICTIM ADVOCACY RESPONSE

Sexual assault victims have a right under the New Hampshire Crime Victims Bill of Rights (**NH RSA 21-M:8-k**) to be treated with dignity and respect throughout the criminal justice process. Victim advocates, both community based crisis center advocates and system based victim/witness assistance advocates, ensure that victims receive the services, support and information they need. Both types of advocates provide support for victims, but there are significant differences in services and confidentiality, as outlined below.

One important role of the advocate is to ensure that all victims are given information on the **New Hampshire Victims' Compensation Program**. While the costs of the sexual assault medical/forensic examination and the sexual assault evidence collection kit are paid for automatically, if a sexual assault victim requires additional medical treatment or other compensation services, the victim **must file** a Victims' Compensation Application.

A victim's eligibility for payment of other medical treatment by the Compensation Program is contingent on the victim first applying to the hospital's free-care program. Victims requiring medical treatment should be advised of this eligibility requirement immediately, as many hospitals have a 30 day window for free-care applications to be filed.

THE ROLE OF THE COMMUNITY CRISIS CENTER ADVOCATE

*Sexual assault victims seeking support from a crisis center advocate **have privileged communication** under- [RSA 173-C](#). This statute prohibits advocates from disclosing any information shared by the victim without a waiver or release.*

There are 14 crisis center programs (*Appendix A*) throughout the state that provide services and support to victims of sexual assault, domestic violence, stalking and sexual harassment. Their services are free and are available to everyone regardless of age, race, religion, sexual orientation, physical ability or financial status. A victim's communication with a crisis center advocate is privileged and confidential.

The services provided include:

- 24-hour toll free crisis line
- Access to emergency shelter and transportation
- Legal advocacy in obtaining restraining orders against abusers
- Hospital and court accompaniment
- Information about and help in obtaining public assistance
- Safety planning with non-offending family members

Immediate involvement of crisis center advocates is recognized as a **crucial service** for both the victim and the community. The role of the crisis center advocate is to provide emotional support and information, to listen, believe, and work to empower the victim while honoring the choices she makes.

Advocates are trained on the process of sexual assault medical examinations and the criminal justice system, allowing advocates to educate sexual assault victims so that victims are aware of their options and can make informed decisions.

Victims are often more cooperative and better able to assist law enforcement and medical staff when they feel supported, believed, and safe; thus best practice calls for crisis center advocates to accompany victims through both the healthcare and criminal justice systems. Crisis center advocates are **not** a part of the criminal justice system. It is not the advocate's goal to find out the details of what happened to the victim, rather discussions between victim and advocate focus on the victim's feelings and emotional needs. The role of the crisis center advocate is to be present and provide support to the victim, not to participate in the actual investigation/interview process.

Involvement of crisis center advocates with victims as early as possible provides the victim with a link to an agency that can provide continuous support long after the medical exam and criminal justice system processes have concluded. Crisis centers support victims in the months and years to come after the assault, in hopes of connecting them with additional resources and aiding victims in their healing.

THE ROLE OF THE SYSTEM-BASED VICTIM/WITNESS ASSISTANCE PROGRAMS

The role of victim/witness advocates (*Appendix B*) is to provide information, education, service-referrals and support to victims of crime. The goal of these programs is to reduce the impact of crime on the lives of victims and witnesses. These advocates are vital to prosecution and law enforcement agencies as they bridge the gap between the criminal justice process and the victim.

Victim/witness advocates are part of every County Attorney's Office, the Attorney General's Office as well as many local law enforcement agencies. Victim/Witness advocates must have a detailed understanding of each stage of the criminal justice process from a victim's initial report to law enforcement through sentencing and post-conviction action. They must also have a working knowledge of court rules, victim rights, and the rights of the accused, in order to explain to a victim or family the status of a criminal case at any stage of the investigation or prosecution.

Unlike crisis center advocates, communications between Victim/Witness advocates and victims are not confidential under the law.

Victim/Witness advocates work to uphold the *New Hampshire Crime Victim's Bill of Rights* for victims by providing:

- Orientation to the criminal justice system to include notification and explanation of criminal complaints or indictments, bail

Victim/Witness Advocates as Witnesses

*It is imperative that victim/witness advocates be in the courtroom to support the victim through the criminal justice process. [RSA 516:7-a](#) mandates that "if a victim/witness advocate is called as a witness **it is up to the defense "to show cause why such victim/witness advocate's testimony is necessary. In no case shall a victim/witness advocate be sequestered"** unless the court finds and orders that based on the facts of the case, the failure to sequester would violate a defendant's rights.*

conditions, court rulings, motions, case- disposition, appeals and parole hearings

- Case status information and notification of all court dates
- Courtroom tours
- Emotional support and accompaniment to court hearings, including trial testimony
- Information about the right to have input at sentencing and parole hearings
- Community referrals for crisis intervention, mental health services or other needs
- Assistance with the return of personal property taken during the investigation
- Employer, school, landlord and creditor intercession services when participation in the criminal justice process has created a hardship in these areas
- Assistance with seeking financial assistance through the New Hampshire Victims' Compensation Program and obtaining restitution as part of a defendant's sentence
- Arranging a separate waiting area from the defendant during court proceedings
- Addressing the special needs of victims with disabilities (i.e. interpreters, wheel chair/handicapped accessible witness stand, equipment for hearing impaired)

COLLABORATING WITH OTHER DISCIPLINES

Victim/witness advocates serve as one of many victim-centered members of a SART. Victim/witness advocates can help to ensure that victims are informed and educated on the criminal justice process and the roles of other agencies a victim might encounter. Victim/Witness advocates can work together with crisis center advocates to coordinate services.

Other SART disciplines can call upon victim/witness advocates if they are working with an adult victim who is contemplating making a report but has questions about the process or the criminal justice system in general. A victim who better understands the process may cooperate with the investigation and prosecution more readily, provide greater detail and express less frustration with the system.

Victim/witness advocates can educate and update mental health providers, community advocates or other professionals working with the victim to be sure each discipline is working with and assisting the victim with a similar understanding as to the status of the criminal case.

MEDICAL RESPONSE

SEXUAL ASSAULT EVIDENCE COLLECTION PROTOCOL AND KIT

The sexual assault evidence collection kit provided by the Attorney General's office to hospitals is to be used for victims only.

Please refer to the Suspect Evidence Collection section of the medical protocol for guidance, if appropriate.

The State of New Hampshire's goal is to provide consistent statewide care that respects the emotional and physical needs of the sexual assault victim, while collecting the best possible forensic evidence to promote the effective prosecution of the offender. Recognizing the dual importance of sensitivity to the medical and emotional needs of the victim and the timely collection and preservation of irretrievable physical evidence, the New Hampshire Attorney General's Office created a comprehensive protocol ***Sexual Assault: An Acute Care Protocol for Medical Forensic Evaluation (Sixth Edition, 2011)*** and a standardized evidence collection kit which according to **NH RSA 21-M:8-d**, is to be used "by all physicians or hospitals in this state when providing physical examinations of victims of alleged sexual offenses".

The State is responsible for the payment of medical/forensic examinations and one follow-up visit when there is no insurance. No victim shall be billed for the cost of the medical/forensic examination. [RSA 21-M:8-c](#)

THE SEXUAL ASSAULT NURSE EXAMINER (SANE) PROGRAM

A SANE is a Registered Nurse or advanced practitioner who has been specially trained to provide comprehensive medical care to sexual assault victims. They demonstrate competency in conducting a medical/forensic examination and have the ability to be an expert witness in cases that go to trial.

The goal is to ensure that compassionate and sensitive medical services and care are provided in a non-judgmental, victim-centered manner. It is best practice to have all sexual assault medical/forensic examinations in New Hampshire be performed by a SANE or physicians and other advanced practice professionals who have gone through the SANE training.

BEST PRACTICES FOR MEDICAL PROVIDERS

AT A GLANCE

- Immediately call the local crisis center to have an advocate come to the hospital to provide support to the victim
- Prioritize patient well-being
- Provide an effective, victim-centered medical response
- Ensure the patient understands the medical-legal process before obtaining written consent

- Explain reporting options – including the option to complete an anonymous examination (See anonymous reporting)
- Conduct the medical forensic examination uninterrupted and in a private room
- Assess the patient’s understanding and needs throughout the medical forensic examination
- Identify, collect and preserve evidence in a timely manner
- Provide a continuity of care from the beginning of the exam to the end
- Refer the patient for further medical care or follow up based on the patient’s request or medical findings
- Provide prophylaxis treatment according to CDC guidelines. This includes providing treatment or information on obtaining emergency contraception
- Maintain confidentiality of records, photographs and communications

MYTH: *Some women and men have sexual assault fantasies and sometimes they come true.*

FACT: *Some people do have fantasies about being overcome or abandoning themselves with their partner. These fantasies differ from sexual assault in that the person has mental control over the beginning and the end of the scenario and can safely abandon inhibition, rather than having them overridden.*

The treatment of sexual assault is considered to be a medical emergency. Victims are treated in a hospital emergency room. If the sexual assault occurred **within 5 days** of the examination, a **Sexual Assault Evidence Collection Kit is to be used**. There is no medical or legal reason for a law enforcement representative, male or female, to be present during the examination.

COMMUNITY BASED ADVOCACY

In all instances the hospital or medical provider shall immediately call an advocate from the local crisis center to come to the hospital and meet with the patient. The advocate should be introduced to the victim, and the victim should be allowed to choose whether or not to speak with the advocate. Having the advocate already present at the hospital will allow the victim to more readily access the support offered by the local crisis center, if she chooses. Confidential patient record information should not be shared with the crisis center advocate unless it is done by the patient, thus avoiding any medical records confidentiality issues.

PRIORITIZING PATIENT WELL-BEING

The physical and psychological well-being of the sexual assault patient should always be given priority over forensic needs. In some cases, the investigation may have to be delayed for immediate medical treatment (examples: if strangulation or a loss of consciousness occurred during the assault, or the victim complains of active bleeding or is pregnant or has abdominal pain). The medical/forensic examination of the victim of sexual assault may assist with the investigation and prosecution of the case, but it is foremost intended to assist the sexual assault victim with her recovery. The victim may need prophylaxis to prevent pregnancy and sexually

transmitted infections, including HIV. The victim should **ALWAYS** be referred for medical assessment and care.

PATIENT CONSENT

It is standard hospital practice to obtain a patient's written consent before conducting a medical examination or administering any treatment. However, informed consent is a continuing process that involves more than obtaining a signature on a form. Therefore, all procedures should be explained in detail so the patient can understand what the examiner is doing and why. Explanation of the examination and treatment process are solely the responsibility of the examiner.

If at any time, a patient expresses resistance or non-cooperation, the examiner should immediately discontinue that portion of the process, discuss any concerns or questions the patient may have regarding that procedure and make a determination about whether or not they can continue. The patient has the right to refuse one or more tests or to refuse to answer any question without that decision negatively impacting the remainder of the exam.

ADOLESCENTS

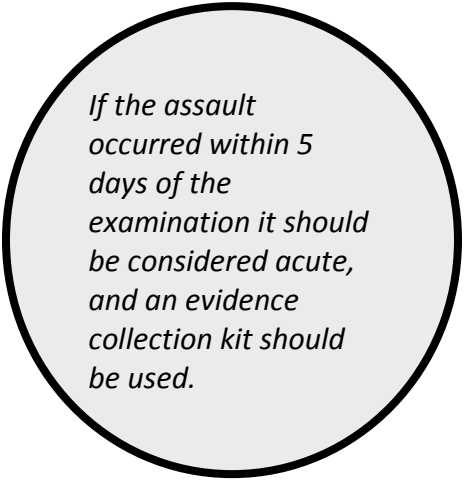
The sexual assault of an adolescent, and the decision whether to perform the sexual assault kit can be difficult. For female patients who have reached the onset of their menses, and for male patients who have reached Tanner Developmental Stage III, the *Sexual Assault: An Acute Care Protocol for Medical/Forensic Evaluation, Sixth Edition, 2011* should be followed. All other populations of children require the practitioner to follow the previously mentioned *Child Abuse and Neglect, Third Edition, 2008* and the Sexual Assault Evidence Collection Kit with modifications as described in the medical/forensic protocol.

TIMELINESS OF EVIDENCE COLLECTION

A medical assessment should be performed in all cases of sexual assault, regardless of the length of time that may have elapsed between the time of the assault and the examination. Some patients may ignore symptoms that would ordinarily indicate serious trauma, both physical and psychological. There may also be areas of tenderness which will later develop into bruises, but which are not apparent at the time of initial examination.

If the assault took place more than 5 days before the medical/forensic examination, it is generally not necessary to use a Sexual Assault Evidence Collection Kit but evidence may still be gathered by documenting findings made during the medical/forensic history and examination, as well as taking photographs.

All medical and forensic specimens collected during the sexual assault examination must be kept separate, both in terms of collection and processing. Those required only for medical purposes should be kept and processed at the examining hospital, and those required strictly for forensic analysis should be transferred to law enforcement for transport to the crime laboratory for analysis.



If the assault occurred within 5 days of the examination it should be considered acute, and an evidence collection kit should be used.

CONFIDENTIALITY OF MEDICAL INFORMATION

Findings from the medical/forensic examination should be documented as completely as possible on the forms provided, which will become part of the patient's medical record. **In addition, photographs taken in the context of the medical/forensic examination become part of the medical record.** They should be labeled, placed in a sealed envelope and put in the medical record. **Photographs should not be placed in the evidence kit.** The existence of photographs should be noted on the Medical/Forensic Examination Form. Evidence collection items should not be released from a hospital without the written authorization and consent of the informed adult patient, or an authorized third party acting on the patient's behalf, if the patient is unable to understand or execute the release. An "*Authorization for Release of Information and Evidence*" form should be completed, making certain that all items being transferred are checked off. In addition to obtaining the signature of the patient or authorized third party on this form, signatures must be obtained from the examiner turning over the evidence, as well as from the law enforcement representative who picks up the evidence and transports it to the New Hampshire State Forensic Laboratory.

Health Insurance Portability and Accountability Act (HIPAA)

In the most general sense, HIPAA *prohibits* the use and disclosure of protected health information unless expressly permitted or required by the regulation. The regulation *requires* disclosure to:

- The individual who is the subject of the information; and
- Health and Human Services for enforcement purposes.

HIPAA regulations do not preempt the health care providers' obligation to report that which must be reported under New Hampshire law (child abuse and neglect and incapacitated adults).

THE STATE FORENSIC LABORATORY

The New Hampshire State Police Forensic Laboratory is a modern multi-disciplinary crime laboratory that provides scientific services to all New Hampshire law enforcement agencies without cost or obligation. The laboratory is comprised of several scientific units each staffed by forensic scientists having specialized education, training and experience in a particular type of evidence examination and analysis conducted.

The Forensic Biology Unit is comprised of the Serology and DNA Sections. Most evidence submitted for the analysis of biological matter (blood, semen, saliva) is initially examined by the Serology Section. Here, forensic serologists subject the evidence to a physical examination where items of trace evidence (hairs, fibers, etc.) are often recovered for possible future analysis. Garments, in particular, are also examined for any noteworthy fabric damage caused through violence or by bullets, knives or other weapons. Stains suspected to be dried body fluids are then subjected to one or more identification tests. Samples of such stains may be forwarded to the DNA Unit for DNA testing.

Forensic serologists will, on a first submitted/first analyzed basis, examine one or more of the specimens contained in the sexual assault evidence collection kit. These samples consist of swabs and suspected biological deposits collected from the outer surfaces of the victim's body (head, neck, limbs and torso), which are tested to determine their possible identity. The serologists rely on information recorded on the *Sexual Assault Medical/Forensic Report* form contained within the evidence collection kit to determine which analyses are appropriate. If there is a suspicion that drugs were used to facilitate the sexual assault and the patient history corroborates such suspicion, arrangements will be made to have either the patient's blood and/or urine tested by an independent toxicology laboratory. Current lab policy is to test the blood if collected within 24 hours of ingestion and to test the urine between 24 and 72 hours since ingestion.

Hair specimens collected from evidence such as clothing and bedding are forwarded to the Trace Evidence Unit only when deemed necessary or upon special request. The hairs are examined microscopically to determine if they originated from a human or another mammal. Human hairs are scrutinized to determine if they are suitable for an in-house DNA analysis, and if so, the hairs are then forwarded to the DNA unit. Most hairs recovered as evidence are not suitable for the type of DNA testing offered in-house by the New Hampshire State Police Forensic Laboratory. These hairs, upon a specific request, can be forwarded to the FBI Laboratory without charge for mitochondrial DNA testing or to a private mitochondrial DNA laboratory for a per sample fee.

The DNA Section is responsible for performing nuclear DNA testing on the biological samples forwarded by the Serology Section and, when appropriate, entering DNA profiles from evidence into the national and/or state Combined DNA Index System (CODIS) database. The DNA Unit also performs DNA testing and CODIS entry on DNA samples collected from convicted offenders covered under New Hampshire's CODIS database law.

Evidence from the investigation of sexual assaults comprises the majority of the cases submitted to the Forensic Biology Unit. Sexual Assault Evidence Collection Kits are the most frequently submitted type of evidence in a sexual assault investigation.

PROSECUTION RESPONSE

The need for prosecutors to support victims' rights cannot be overstated. This responsibility should not be overshadowed by competing demands and responsibilities.

The primary role of prosecution is to see that justice is accomplished. 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.

The goal of a victim-centered and offender-focused response is to decrease re-victimization by ensuring the victim 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 victims' actions, present unique challenges in the successful prosecution of this crime. Prosecutors are uniquely positioned to educate the community, jury by jury, about sexual assault dynamics and the tactics offenders use. ([*Appendix D Prosecutor Resource List*](#))

BEST PRACTICES FOR PROSECUTION

VERTICAL PROSECUTION

Vertical prosecution is recommended in all sexual assault cases. Vertical prosecution means the same prosecutor, who has specialized training and/or experience in sexual assault cases, 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.

MEETING WITH THE VICTIM

It is recommended that prosecutors meet with the victim prior to making a determination about whether or not to charge the defendant. Meeting with the victim gives prosecutors increased insight not available through written reports. Meeting with the victim is also part of being victim centered, demonstrates to the victim that the prosecution is taking the case seriously and provides an opportunity to build trust between the victim and the prosecutor.

When it is likely that the facts of the case will be discussed at a meeting, it is recommended that the investigating officer or other law enforcement personnel be present. Failure to have a witness present could result in the prosecutor becoming a witness.

The County Attorney's Office victim/witness advocate should be present whenever possible. An advocate can provide support to the victim and her family.

Meeting with the victim also 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 discuss all relevant facts and offer her perspective regarding the sexual assault is essential to obtaining a full picture of the case. In order to do this, a prosecutor, along with the victim/witness advocate, should attempt to establish rapport by:

- Conducting the meeting in a place where the victim feels safe and is able to speak freely
- Allowing adequate time for the meeting
- Answering the victim's questions as fully and accurately as possible
- Adopting a non-judgmental and "seeking to understand" perspective in speaking with the victim
- Explaining the legal process associated with the prosecution of a sexual assault, and the prosecutor's discovery obligations, including the accumulation of relevant materials and the disclosure and admissibility of sensitive and potentially privileged information concerning the victim. (example medical records)
- Reviewing the victim's rights and explaining the victim's role throughout the prosecution process
- Inquiring about any threats defendants have made toward victims, and respecting and supporting the victim's efforts to maintain their safety

VICTIMS WHO CHOOSE NOT TO PARTICIPATE IN PROSECUTION

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

There are a variety of reasons why a victim may not wish to pursue a prosecution including:

- Lengthy timeframes associated with the investigation and prosecution of the case
- Feeling uninformed about, and uninvolved in, the decision making or prosecution process
- Victims may not initially realize the toll that a criminal investigation and trial can take on them mentally, emotionally and physically
- Pressure from family, friends and the community to not participate in prosecuting the defendant

The prosecutor should attempt to understand the reasoning behind a victim's desire to not pursue a prosecution. In some instances, addressing the victim's concerns may allow a

MYTH: *Men can't be sexually assaulted, especially by women. If the man does not have an erection it can't happen.*

FACT: *Men are sometimes sexually assaulted by women. Women who assault men frequently rely on intimidation and threat of violence, rather than physical force. Examples are male students and female teachers, male patients and female therapists, male employees and female supervisors. Penile erection can occur in response to extreme emotional states, such as anger and terror, as well as to sexual assault.*

prosecution to proceed forward. However, when victims are unable to or choose not to participate in a prosecution, they should be treated with the same dignity and respect as victims who are able to fully participate in the prosecution of their case.

COLLABORATION WITH LAW ENFORCEMENT

Prosecutors should review the investigative file early in the process to identify incomplete information or gaps in the evidence. Working closely with law enforcement ensures the collection of important evidence. The sooner this process begins, the more likely that evidence will be preserved and/or obtained.

CHARGING DECISIONS

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 may feel re-traumatized because the pathway to achieve closure through the justice system has been closed for them.

It is the responsibility of the prosecutor's office 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. Best practice is to make notification in person or by phone whenever possible. In addition, as a courtesy to the investigating agency, the agency should be consulted and informed of the prosecutor's decision prior to disclosure to the victim. Notification of the victim 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. The victim is the person most affected by the crime and in the majority of sexual assaults, the only witness to the assault. Providing information, education and respect to victims and their families promotes cooperation and helps to build the strongest case possible.

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

- Understanding the victim's trauma
- 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 media coverage, including the presence of media in the courtroom

- Cautioning victims about potential consequences of discussing the case with others outside the criminal justice system
- Preparing victims, family members or other loved ones on how to respond to inquiries from defense attorneys, investigators and the media.

PROTECTING VICTIM SAFETY

PROSECUTOR CONDUCT

It is critical that members of the prosecution team behave appropriately at all times when interacting with victims and their supporters. Prosecutors should avoid:

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 or resources.

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 others. To promote 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 rather than oral
- Inform victims about the terms of bail conditions for the offender
- 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 proceedings at the courthouse

INITIAL COURT APPEARANCES OR PRE-TRIAL HEARINGS

A victim's attendance at court may be a difficult experience. In some cases, it may be the first time the victim and defendant meet face to face after the assault. Undoubtedly, it will be an affirmation that the defendant is being held accountable for his actions. Because of this, it is not uncommon for defendants to attempt to intimidate the victim. A victim-centered response recognizes that court appearances are a critical emotional juncture for the victim. When working with victims, the prosecutor and/or advocate should:

- Discuss the advantages and disadvantages of victim attendance at court proceedings
- Consider whether efforts should be made to quash a subpoena should the defendant subpoena a victim to testify at an initial court appearance or pre-trial hearing
- Be fully informed about the facts of the case

- Plan where the victim will be waiting prior to and during all court proceedings to limit the victim's exposure to the defendant, his family or his supporters
- Attempt to ensure the victim and the defendant do not enter the courtroom at the same time

PLEA NEGOTIATIONS

A victim's input should always be sought before plea discussions. Explain the rationale for offering a negotiated plea and ask victims for their feedback. Minimally, the prosecutor should:

- Never present a plea without first attempting to contact the victim
- Educate the victim about the process of plea negotiations and sentencing options
- Make sure the victim is informed of the disposition being offered to the defendant

TRIAL PREPARATION

A victim-centered approach recognizes the need to fully prepare victims for the realities of the trial process. Involving victims in preparing the prosecution's case will empower them and improve their testimony. To prepare victims for trial, the prosecutor/advocate should:

- Provide a courtroom tour
- Prepare the victim for all testimony and anticipated cross examination
- 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 crisis center advocates and encourage the victim to use advocates for emotional support
- Caution the victim about speaking about the case with others in a public place such as a courthouse restroom or any other place where potential jury members or others may be present before, during and after the trial
- Advise the victim who may be present in the courtroom
- Discuss with the victim the benefits and challenges of attending certain phases of the trial
- Prepare the victim for the various possible outcomes of the trial

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. Jurors are also exposed to dramatized and/or wholly fictional accounts of sexual assaults in various media which often bear no relationship to reality. The questions asked of potential jurors during the selection process expose myths and prejudices that they may hold about sexual assault.

SENTENCING

Sentencing can be an empowering and/or traumatic experience for victims and their family members. To prepare victims for the sentencing phase of a trial, the County Attorney's Office should:

- Inform the victim regarding her rights at sentencing
- Prepare the victim about how to address the court
- Prepare the victim for sentencing arguments by the prosecution and defense
- Advise that family members and friends may be present to support the victim
- Insist that a “no contact order” is included in sentencing, if desired by the victim

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, law enforcement witnesses and victim/witness advocates may broaden the level of feedback received and improve the prosecution’s presentation in future cases. Surveying jurors after trial proceedings have concluded will provide additional insight about how to improve the prosecution’s presentation of future sexual assault cases.

SPECIAL CONSIDERATIONS

ELDERLY VICTIMS

Elder sexual abuse consists of any sexual activity for which the older person does not consent or is incapable of giving consent as a result of physical or cognitive impairment. Each year, many cases of elder sexual abuse go unreported because professionals fail to recognize or identify the physical, behavioral or environmental cues that often accompany the abuse. This lack of recognition and reporting may be attributed to the misperception that the elderly are not likely targets for sexual abuse. Consequently, abuse of this population is often overlooked.

Elder sexual abuse includes *hands-on offenses* (unwanted kissing, touching and/or penetration of intimate body parts), *hands-off offenses* (sexual harassment, exhibitionism, forcing an individual to view pornographic images, criticism of an older adult's body, genitalia, and sexuality) and *harmful genital practices* (unwarranted and intrusive procedures for caring for genital areas, application of creams or enemas when not medically necessary).

In most cases, the victim of elder sexual abuse either knows or has an on-going relationship with the perpetrator. The offender may be a family member, spouse, intimate partner, non-relative caregiver or employee of a nursing home or assisted living facility. The same motivations that apply to domestic violence and sexual abuse of younger victims (power and control) also apply to elder sexual abuse. Sexual predators use sexual acts to dominate, punish, humiliate and control their victims. Offenders often target elderly victims because they believe seniors are more vulnerable, less likely to resist, and less likely to report the assault.

Perpetrators will often target elders with dementia or limited cognitive abilities because the victim (if they do report the assault) is not viewed as a credible reporter. It is crucial, therefore, that all allegations of elder sexual abuse are taken seriously.

Sexual abuse of older adults can be life threatening and great care must be taken to ensure the physical and mental well being of the victim. Medical and social follow-up services must be easily accessible to older victims or they may not be willing or able to seek or receive services. Support for the victim may be obtained through the local crisis center ([*Appendix A*](#)) and the Department of Health and Human Services, Bureau of Elderly and Adult Services ([*Appendix C*](#)). The victim may also receive important emotional support from the leaders and members of the local faith-based community.

Indicators of Elder Sexual Abuse:

- Pain, itching, bruising or bleeding in the genital area
- Unexplained sexually transmitted diseases
- Unexplained or sudden behavioral changes (hygiene, avoidance or fear of specific person, recent resistance to certain types of caregiving such as bathing)
- Coded disclosures such as "he's my boyfriend"; "he loves me"; or "I'm his favorite girl"

MANDATORY REPORTING

Anyone who suspects that an incapacitated person is being abused must report that abuse. Call **1 (800) 949-0470**.

Pursuant to RSA 161-F:46, “any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, and **law enforcement officials**, suspecting or believing in good faith that any adult who is or who is suspected to be incapacitated has been subject to abuse, neglect, self-neglect, or financial exploitation or is living in hazardous conditions shall report or cause a report to be made to the Department of Health and Human services” by calling their regional office of the Bureau of Elderly and Adult Services or: 1-800-949-0470 (Appendix C)

Reasons Why Elderly Victims May Not Want, or are Unable, to Report or Assist with the Investigation

- *Victims may be reluctant to talk about the attack, report it, or accept help because of the stigma attached to being a victim of sexual abuse or out of fear of retaliation by the perpetrator. Generational values may make it difficult for some victims to talk about sexual abuse and/or body parts.*
- *Where the abuser is a relative or home caregiver, the victim may be completely dependent upon the caregiver to meet those essential needs (food, medicine, shelter, hygiene) that allow her to remain in her home.*
- *Impaired memory, vision or hearing loss may limit a victim’s ability to report episodes or be an accurate witness.*
- *Examination may be much more difficult or even impossible as a result of physical conditions such as the victim’s limited ability to move or reposition themselves for an examination.*
- *As a result of dementia, victims may not be able to understand that they were assaulted and may be unable to cooperate with exams.*

CULTURAL COMPETENCY

Common fears among sexual assault victims include worrying that the attacker will come back; fear of being alone or of crowds, and concern about family and friends finding out about the attack. Gay, lesbian, bi-sexual and transgender victims may also fear seeking help after an assault out of concern that the report will be taken less seriously or ignored because of their sexual orientation, or that their sexual orientation will be made public. Male victims of sexual assault may worry that they will be considered less "manly." Feelings of anger, frustration, powerlessness and helplessness are common among survivors of any age, gender or sexual orientation. Reactions to the assault can also include embarrassment, guilt, emotional numbness, suspicion, denial, obsessions with the assault, aversion to touch, and the disruption of a normal sex life.

MALE VICTIMS OF SEXUAL ASSAULT

When a sexual assault occurs, it is devastating to the victim regardless of gender. Male victims have the same rights under the law as women. Men are entitled to the same services and support following a sexual assault.

Male victims may face unique hurdles to reporting the crime and to getting the medical assistance and emotional support they need and deserve. Male sexual assault victims may believe that the law enforcement, medical professionals, and even sexual assault crisis center advocates will be insensitive to their experience because they are men.

Victims of sexual assault often blame themselves for the attack(s). Men, in particular, may feel that they should have been strong enough to defend themselves against the assault. They may feel that a "real man" could have avoided the sexual assault.

Male sexual assault victims suffer a similar fear that female victims face - that people will believe the myth that they may have enjoyed being sexually assaulted. Some men may believe that because they became sexually aroused, had an erection, or ejaculated during the sexual assault they were not raped or that they gave consent. These are normal, involuntary physiological reactions. It does not mean that the victim wanted to be sexually assaulted, or that the survivor enjoyed the traumatic experience. Sexual arousal does not necessarily mean there was consent.

There are many reasons that male victims do not come forward and report being sexually assaulted, but perhaps the biggest reason is the fear of being perceived as homosexual. However, male sexual assault has nothing to do with the sexual orientation of the attacker or the victim, just as a sexual assault does not make the victim gay, bisexual or heterosexual. It is a violent crime that affects heterosexual men as much as gay men. The phrase "homosexual rape," for instance, which is often used by uninformed persons to designate male-male rape, camouflages the fact that the majority of the rapists are not homosexual (Donaldson, 1990).

It is important to help victims understand that they are not to blame. Sexual assault is a crime of power and control and perpetrators use many methods to control their victims, including fear, shame, threats, and debilitating substances like alcohol and drugs.

Sexual assault, regardless of gender, is a crime and is NEVER the victim's fault.

***Information in this section is adapted from the NH Coalition Against Domestic & Sexual Violence (NHCADSV) website: http://www.nhcadsv.org/learn_more.cfm**

VICTIMS WITH DISABILITIES

More research on sexual assault and persons with disabilities and Deaf victims is needed. However, some research suggests that victims with specific disabilities experience higher risk of sexual assault than victims with other disabilities or victims without disabilities. Intellectual disabilities, communication disorders, and behavioral disorders appear to be associated with very high levels of risk. For example, one study found that victims with developmental disabilities are four to ten times more likely to be sexually assaulted than those without a developmental disability. Moreover, victims with developmental disabilities are more likely to experience repeated victimization.

NOTE: When working with an adult victim who is incapacitated, there is a mandate to report (RSA 161-F) the sexual assault to the local District Office of the Bureau of Elderly and Adult Services. See Appendix C for contact information. Also refer to the section on **Elderly Victims** in this protocol.

Perpetrators of sexual assault may target people with disabilities for many reasons. Some perpetrators may perceive that victims with disabilities and Deaf women tend to be socially or physically isolated and can be easily manipulated into trusting someone. Others might exploit the fact that oftentimes these victims/ survivors tend to not report such experiences to others. And, while many of these perceptions are based in stereotypes about people with disabilities in general, they can affect the safety of some victims.

It is also important to note that victims with disabilities are not often believed when they report a sexual assault. This can also be a reason for increased risk, as perpetrators will believe they will not be caught or prosecuted.

Resources and fact sheets

The NH Coalition Against Domestic & Sexual Violence website http://www.nhcadsv.org/victims_disabilities.cfm has several handouts related to working with survivors with disabilities. Click on the links below to download them.

Red flags for an abusive or potentially abusive caregiver

Tips for Communicating with Survivors with Cognitive Disabilities

Tips on what to do when an individual with a disability discloses abuse

Tips for Working with Sexual Abuse Survivors Who Have Disabilities

Other Resources:

New Hampshire Agencies: [Click here](#) for a list of agencies assisting people with disabilities in NH.

***Information in this section is adapted from the NH Coalition Against Domestic & Sexual Violence (NHCADSV) website: http://www.nhcadsv.org/learn_more.cfm**

SEXUAL ASSAULT IN COMMUNITIES OF COLOR

While the impact of sexual assault crosses all social, economic, and racial lines, there are barriers and concerns that are unique to communities of color. Victims of color often face a lack of culturally appropriate services as well as prevention and supportive resources in diverse languages. Adding to these challenges is a lack of collaboration with the community based social service programs that historically provide services to communities of color. These conditions have led to an often marginalized and underserved population of survivors.

Each community of color has challenges and circumstances that are unique to its community. However, there are common factors that account for many of the barriers sexual assault survivors of color face as they seek help:

- Cultural and/or religious beliefs that restrain the survivor from leaving the abusive relationship or involving outsiders
- Strong loyalty bonds to race, culture and family
- Distrust of law enforcement, criminal justice system, and social services
- Lack of service providers that look like the survivor or share common experiences
- Lack of culturally and linguistically appropriate services
- Lack of trust based on history of racism and classism in the United States
- Fear that their experience will reflect on or confirm the stereotypes placed on their ethnicity
- Assumptions of providers based on ethnicity
- Attitudes and stereotypes about the prevalence of sexual assault in communities of color
- Legal status in the U.S. of the survivor and/or the batterer

[Click here for more detailed facts and statistics from the Women of Color Network](#)

***Information in this section is adapted from the NH Coalition Against Domestic & Sexual Violence (NHCADSV) website: http://www.nhcadsv.org/learn_more.cfm**

LESBIAN, GAY, BISEXUAL, AND TRANSGENDER VICTIMS

According to The Williams Institute on Sexual Orientation Law and Public Policy, approximately 8.8 million people in the United States are gay, lesbian, or bisexual. This is a rough estimate because definitions of sexual orientation and behavior are not standardized. For example, some individuals who engage in same-sex behavior or intimacy do not identify as gay or lesbian and some individuals' gender identity or gender expression may not conform easily to female or male identities.

The lesbian, gay, bisexual, transgender, and questioning/queer (LGBTQ) community is diverse and includes individuals who may or may not be visibly identifiable as such to those around them. When LGBTQ individuals disclose their sexual orientation, gender identity, or sex, they may suffer severe forms of discrimination and violence. For example, there have been numerous

situations in which transgender persons have disclosed their sex and gender identity and have been sexually assaulted, seriously injured, and even murdered.

***Information in this section is adapted from the OVC Office of Justice Programs, National SART Toolkit: <http://ovc.ncjrs.gov/sartkit/focus/culture-lgb.html>**

Note: Extensive information and resources for working with other culturally diverse populations are also available at this website.

This section includes common terms and resources.

VICTIMS' COMPENSATION PROGRAM

Victims of sexual assault may be eligible to apply to the **New Hampshire Victims' Compensation Program** for compensation of medical/dental expenses, mental health therapy expenses, lost wages or other out-of-pocket expenses not covered by insurance or other resources available to the victim. The compensation must be directly related to the victims' condition as a result of the crime. Property losses and pain and suffering cannot be compensated using this method of compensation. **In order to qualify, the victim must report the crime to law enforcement.**

Victims should be informed about the program. Victim/witness programs and crisis centers can assist victims with the application process.

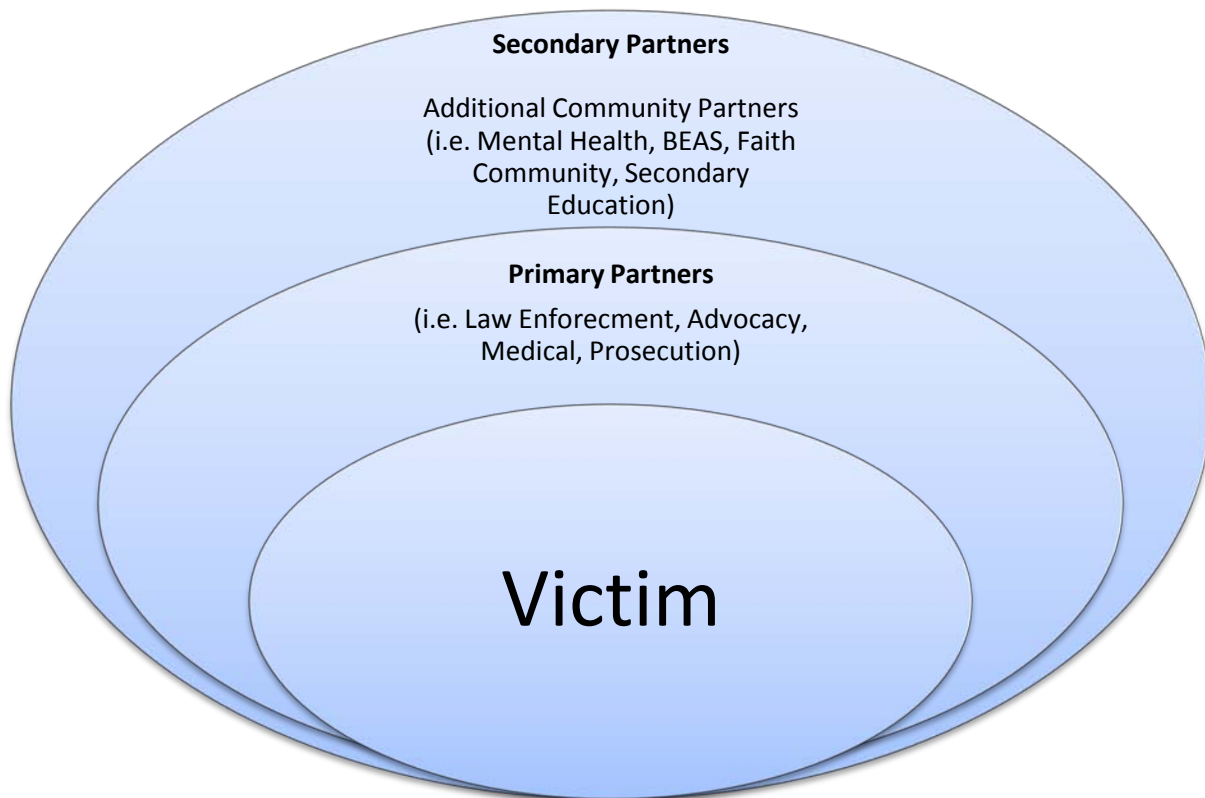
**NH Victims' Compensation Program
Attorney General's Office
33 Capitol Street
Concord, NH 03301
1-800-300-4500 (in NH only)
Or (603) 271-1284**

For more information go to: <http://doj.nh.gov/grants-management/victims-compensation-program/index.htm>

CONCLUSION

Sexual assaults are among society's most heinous and under reported crimes. Across the nation and here, in New Hampshire, great emphasis is being placed on the need for law enforcement, health care professionals, victim advocate groups, prosecutors and other allied professionals to take a collaborative, proactive approach when reports of sexual violence are made by adult victims. When the criminal justice system's response to victims is conducted by following best practice guidelines, the goal is to minimize further trauma to the victim and to assist in their healing. The SART Model is a successful way for all professionals to work in a victim-centered way that will hold offenders accountable for their behavior and lead to safer communities. The updating of this Protocol is part of a comprehensive plan to ensure consistent, sensitive, and compassionate treatment for victims and to increase successful prosecutions through thorough victim-centered investigations.

It is New Hampshire's expectation that all disciplines involved in the response to adult sexual assault will work collaboratively using a victim-centered approach.



APPENDICES

APPENDIX A CRISIS CENTER LIST

NH Statewide Sexual Assault Hotline: 1-800-277-5570

NH Statewide Domestic Violence Hotline: 1-866-644-3574

NH Coalition Against Domestic and Sexual Violence - PO Box 353, Concord, NH 03302-0353 - Office Phone: 603-224-8893

General Web Site: www.nhcdsv.org and Teen Web Site: www.reachoutnh.com

The NH Coalition is comprised of 14 member programs throughout the state that provide services to survivors of sexual assault, domestic violence, stalking and sexual harassment. You do not need to be in crisis to call. Services are free, confidential, and available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expression, socio-economic status, race, national origin, immigration status or religious or political affiliation. The services include:

- Support and information, available in person and through a 24-hour hotline
- Accompaniment, support, and advocacy at local hospitals, courts, and police departments
- Access to emergency shelter
- Peer Support Groups
- Assistance with protective/restraining orders and referrals to legal services
- Information and referrals to community programs
- Community and professional outreach and education

RESPONSE to Sexual & Domestic Violence

54 Willow Street
Berlin, NH 03570
1-866-662-4220 (crisis line)
603-752-5679 (Berlin office)
603-237-8746 (Colebrook office)
603-788-2562 (Lancaster office)
www.coosfamilyhealth.org/response

Turning Points Network

11 School Street
Claremont, NH 03743
1-800-639-3130 (toll free crisis line)
603-543-0155 (Claremont office)
603-863-4053 (Newport office)
www.free-to-soar.org

Crisis Center of Central NH (CCCNH)

PO Box 1344
Concord, NH 03302-1344
1-866-841-6229 (crisis line)
603-225-7376 (main office)
603-225-5444 (walk-in office)
www.rdvcc.org

Starting Point: Services for Victims of Domestic & Sexual Violence

PO Box 1972
Conway, NH 03818
1-800-336-3795 (crisis line)
603-447-2494 (Conway office)
603-539-5506 (Ossipee office)
www.startingpointnh.org

Sexual Harassment & Rape Prevention Program (SHARPP)

UNH/Verrette House
6 Garrison Avenue
Durham, NH 03824
1-888-271-SAFE (7233) (crisis line)
603-862-3494 (office)
www.unh.edu/sharpp

Monadnock Center for Violence Prevention

12 Court Street
Keene, NH 03431-3402
1-888-511-6287 (crisis line)
603-352-3782 (crisis line)
603-352-3782 (Keene office)
603-209-4015 (Peterborough)
603-209-4015 and
603-532-6288 (Jaffrey Office)
www.mcvprevention.org

New Beginnings – Without Violence and Abuse

PO Box 622
Laconia, NH 03247
1-866-841-6247 (crisis line)
603-528-6511 (office)
www.newbeginningsnh.org

WISE

38 Bank Street
Lebanon, NH 03766
1-866-348-WISE (crisis line)
603-448-5525 (local crisis line)
603-448-5922 (office)
www.wisefoftheuppervalley.org

The Support Center at Burch House

PO Box 965
Littleton, NH 03561
1-800-774-0544 (crisis line)
603-444-0624 (Littleton office)
www.tccap.org/support_center.htm

YWCA crisis Service

72 Concord Street
Manchester, NH 03101
603-668-2299 (crisis line)
603-625-5785 (Manchester office)
www.ywcanh.org

Bridges: Domestic & Sexual Violence Support

PO Box 217
Nashua, NH 03061-0217
603-883-3044 (crisis line)
603-889-0858 (Nashua office)
603-672-9833 (Milford office)
www.bridgesnh.org

Voices Against Violence

PO Box 53
Plymouth, NH 03264
1-877-221-6176 (crisis line)
603-536-1659 (local crisis line)
603-536-5999 (public office)
603-536-3423 (shelter office)
www.vavnh.org

A Safe Place

6 Greenleaf Woods, Suite 101
Portsmouth, NH 03801
1-800-854-3552 (crisis line)
603-436-7924 (Portsmouth crisis line)
603-436-4619 (Portsmouth office)
603-330-0214 (Rochester crisis line)
603-890-6392 (Salem crisis line)
www.asafeplacenh.org

Sexual Assault Support Services

7 Junkins Avenue
Portsmouth, NH 03801
1-888-747-7070 (crisis line)
603-436-4107 (Portsmouth office)
603-332-0775 (Rochester office)
www.sassnh.org

APPENDIX B
COUNTY ATTORNEY'S OFFICES/VICTIM WITNESS PROGRAMS

State Office of
Victim/Witness Assistance
Attorney General's Office
33 Capitol Street
Concord, NH 03301
603 271-3671

Belknap County
Victim/Witness Program
Belknap County Superior
Courthouse
64 Court Street
Laconia, NH 03246
603 527-5440

Carroll County
Victim/Witness Program
P.O. Box 218
Ossipee, NH 03864
603 539-7476

Cheshire County
Victim/Witness Program
12 Court Street
Keene, NH 03431
603 352-0056

Coos County Victim/Witness
Program
1 Middle Street, 3rd Floor
Lancaster, NH 03584
603-788-3812

Grafton County
Victim/Witness Program
3785 Dartmouth College
Highway, Box 7
No. Haverhill, NH 03774
603 787-2040 or
603 787-6968

Hillsborough County
Victim/Witness Program
Northern District
300 Chestnut Street
Manchester, NH 03101
603 627-5605

Hillsborough County
Attorney's Office
Southern District
Victim Witness Program
19 Temple Street
Nashua, NH 03060
603 594-3255

Merrimack County
Victim/Witness Program
4 Court Street
Concord, NH 03301
228-0529

Rockingham County
Victim/Witness Program
P.O. Box 1209
Kingston, NH 03848
603 642-4249

Strafford County
Victim/Witness Program
P.O. Box 799
Dover, NH 03821-0799
603 749-4215

Sullivan County
Victim/Witness Program
Sullivan County Attorney's
Office
14 Main Street
Newport, NH 03773
603 863-8345

United States Attorney's
Office
District of New Hampshire
James C. Cleveland Federal
Bldg.
55 Pleasant St., Suite 312
Concord, NH 03301
603 225-1552

APPENDIX C

NEW HAMPSHIRE BUREAU OF ELDERLY AND ADULT SERVICES

Berlin District Office

650 Main Street, Suite 200
Berlin, NH 03570
603-752-7800 or
1-800-972-6111

Claremont District Office

17 Water Street
Claremont, NH 03743-2280
603-542-9544 or
1-800-982-1001

Concord District Office

40 Terrill Park Drive
Concord, NH 03301-7825
603-271-3610 or
1-800-322-8191

Conway District Office

73 Hobbs Street
Conway, NH 03818
603-447-3841 or
1-800-552-4828

Keene District Office

809 Court Street
Keene, NH 03431-1712
603-357-3510 or
1-800-624-9700

Laconia District Office

65 Beacon Street West
Laconia, NH 03246
603-524-4485 or
1-800-322-2181

Littleton District Office

80 N. Littleton Road
Littleton, NH 03561
603-444-6786 or
1-800-552-8959

Manchester District Office

195 McGregor Street, Suite 110
Manchester, NH 03102
603-668-2330 or
1-800-852-7493

Southern District Office

3 Pine Street Ext., Suite Q
Nashua, NH 03060
603-863-7726 or
1-800-852-0632

Seacoast District Office

50 International Drive
Portsmouth, NH 03801
603-433-8300 or
1-800-821-0326

Rochester District Office

150 Wakefield Street, Suite 22
Rochester, NH 03867
603-332-9120 or
1-800-862-5300

If you are unable to reach the appropriate District Office indicated above, contact APS Central Intake for assistance, or contact:

New Hampshire Division of Elderly and Adult Services

129 Pleasant Street, Concord, NH 03301-3857
603-271-9203 or TDD Access: Relay NH 1-800-735-2964

APPENDIX D

PROSECUTION RESOURCE LIST

AEquitas, The Prosecutor's Resource on Violence Against Women:
<http://www.aequitasresource.org/index.cfm>

AEquitas: Technical Assistance- 24/7 case consultation:
<http://www.aequitasresource.org/taRegister.cfm>

AEquitas: Library (Includes Monographs, Strategies Newsletters, Strategies in Brief, Statutory Compilations & Caselaw Summaries and other resources)
<http://www.aequitasresource.org/library.cfm>

AEquitas: Training (Includes national training opportunities and webinar offerings)
<http://www.aequitasresource.org/training.cfm#trainings>

Legal Momentum, The Women's Defense & Education Fund, Publications, Resources and Legal Cases:
<http://www.legalmomentum.org/legal-knowledge/>

National Center for the Prosecution of Violence Against Women, "False Reporting: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault":
http://www.ndaa.org/pdf/the_voice_vol_3_no_1_2009.pdf

National Criminal Justice Reference Service (NCJRS), U.S. Department of Justice:
<https://www.ncjrs.gov/whatsncjrs.html>

National District Attorneys Association, American Prosecutors Research Institute, "Prosecuting Alcohol Facilitated Sexual Assaults":
http://www.ndaa.org/pdf/pub_prosecuting_alcohol_facilitated_sexual_assault.pdf

NDAA, APRI, "Introducing Expert Testimony to Explain Victim Behavior in Sexual Assault & Domestic Violence Prosecutions":
http://www.ndaa.org/pdf/pub_introducing_expert_testimony.pdf

NDAA, APRI, "Victim Responses to Sexual Assault: Counterintuitive or Simply Adaptive?"
http://www.ndaa.org/pdf/pub_victim_responses_sexual_assault.pdf

Office of Justice Programs, National Institute of Justice, Publications:
<http://www.nij.gov/publications/welcome.htm>

Office for Victims of Crimes (OVC)
<http://www.ojp.usdoj.gov/ovc/>

Tips for Testifying as a Witness Factsheet, Sexual Violence Justice Institute, MN Coalition Against Sexual Assault (MNCASA) 2010
http://www.mncasa.org/Documents/svji_facts_2_1330733029.pdf

APPENDIX E

ALCOHOL/DRUG FACILITATED SEXUAL ASSAULT RESOURCES

National Criminal Justice Research Service (NCJRS): In the spotlight: Club drugs
http://www.ncjrs.org/club_drugs/summary.html

National Institute on Drug Abuse: Club drugs
<http://www.nida.nih.gov/Infobox/clubdrugs.html>

Office of National Drug Control Policy (ONDCP): Club drugs
<http://www.whitehousedrugpolicy.gov/drugfact/club/index.html>

United States Department of Justice: Information Bulletin: Raves
<http://www.usdoj.gov/ndic/pubs/656/>

United States Department of Health and Human Services and SAMHSA's National Clearinghouse for Alcohol & Drug Information:

Rohypnol Fact Sheet

<http://www.health.org/nongovpubs/rohypnol/>

GHB Fact Sheet

<http://www.health.org/nongovpubs/ghbqa/>

MDMA/Ecstasy Fact Sheet

<http://store.health.org/catalog/facts.aspx?topic=4&h=drugs>

Others

<http://www.health.org/newsroom/abuseInformation/default.aspx?s=oxygencontin>

The National Women's Health Information Center: Date rape drugs
<http://www.4woman.gov/faq/rohypnol.htm>

US Department of Justice Federal Bureau of Investigation. LeBeau MA. Toxicological Investigation of Drug-Facilitated Sexual Assault. Forensic Science Communications. 1999 Apr; 1(1)
<http://www.fbi.gov/hq/lab/fsc/backissu/april1999/lebeau.htm>

Sexual Assault Training & Investigations
http://www.mysati.com/resources_new.htm

American Prosecutor's Research Institute: The Prosecution of Rohypnol and GHB-related sexual assaults
http://www.ndaa-apri.org/publications/apri/violence_against_women.html

Project GHB, Inc.
<http://www.projectghb.org/>

Toxicity: Gamma-Hydroxybutyrate (article)
<http://emedicine.com/emerg/topic848.html>

APPENDIX F

ROLE OF THE FIRST RESPONDER IN SEXUAL ASSAULT INVESTIGATIONS

1. The First Responder's contacts after the assault are critical to the victim's recovery and dramatically impact on the victim's ability to accept and respond positively to continued investigative efforts. Sensitivity should be exercised in urging the victim to have a medical examination and evidence collected.
2. Be non-judgmental. Emphasize that you are there to help. Do not press the victim to reveal details of the assault that are not necessary in order to take an initial report or to treat immediate medical problems.
3. Because the victim is in crisis, it is necessary to speak clearly and concisely in simple sentences. Ask the victim if she understands what was said. Do not overwhelm the victim with information. Focus on one problem or concern at a time.
4. The victim may be angry with everyone, especially if intoxicated. Give the victim the opportunity to vent. Avoid a defensive posture. Remind the victim that you are there to help.
5. The victim may have a strong desire to clean up following the assault. Explain why it is imperative that she NOT wash her hands, brush teeth, shower, bathe, or douche even if she is adamant or uncertain about not wanting to report and press charges. Explain the importance of collecting fragile evidence while the victim decides about making a formal report to law enforcement or not.
6. *Confidentiality is imperative.* Do not divulge an individual's name as a sexual assault victim to anyone who does not have a direct need to know that information.
7. Assess the impact of partners, friends, family members (allies) on the victim. If they are causing further trauma for the victim, it may be necessary to separate them from the victim while you are meeting.
8. Encourage the victim to make small decisions as a way of helping her regain control in her life. Do not start making all the decisions for the victim and explain to the allies why they, too, need to allow the victim to make choices.
9. Assure the victim that s/he is not alone and that there are people who will understand and help her/him get through this. Stress the importance of the Advocate/Officer team.
10. Sexual assault is a crime and responding to the victim in a house or residence where the assault occurred requires special care that the crime scene is not disturbed.

APPENDIX G

VICTIM RESPONSE TO SEXUAL ASSAULT - CRISIS STAGE

A victim recovering from rape goes through different stages of recovery with different coping strategies at each stage, which may affect her or his ability to cooperate with helping professionals. It is essential for those working with a victim of sexual violence to understand these stages and to direct their helping approach to the victim's stages of recovery.

Sexual assault is a total and terrifying invasion of the victim's physical, emotional, and spiritual integrity. Throughout the attack, the victim may be grappling with the belief that she will be killed. Sexual assault shatters the victim's vision of the world as a safe place. It destroys the victim's belief that she has control over her life; that she is a person whose needs and wishes are worth respecting. This is especially true if the victim knew the attacker.

The reaction of the sexual assault victim will depend partly on the person's usual coping strategies for handling trauma and partly on her personality. The most common victim reactions, which are understood as Rape Trauma Syndrome, include:

1. **Controlled Response** - This coping strategy is manifested by outward calm. The victim may show little emotion and appear withdrawn. The victim may avoid eye contact and have difficulty responding to questions. This may be a temporary phase or the usual way that stress is handled.
2. **Visibly Upset** - The victim may exhibit fearfulness, shaking, uncontrollable sobbing, or other manifestations of trauma.
3. **Sarcastic Response** - The victim may smile or laugh at what seems inappropriate at times. This type of behavior is not an uncommon reaction to extreme trauma and does not mean that the victim has not been deeply affected by the assault.

Anyone working with a victim of sexual violence must be non-judgmental in responding to the various strategies the victim may use in coping with the trauma immediately after that assault.

Additionally, the victim's crisis state may lead to an inability to make decisions. This may result in delayed reporting or in the victim not pursuing avenues of escape, which might be apparent to the outside observer. The victim may also be ambivalent about prosecution. Many victims are unable to recall details of the assault.

A victim may attempt to cope by engaging in routine behaviors immediately after the assault. The person is trying to believe that life has returned to "normal." For example, a woman who is raped may proceed to go to work or to school. This is an attempt to reassure ones-self that the world is still the same and that the assault did not destroy the victim's life. It may also be an attempt to regain a sense of control over one's own life.

A victim who is experiencing Rape Trauma Syndrome may become less cooperative when entering the "adjustment phase." In this phase, the victim tries to pretend everything is normal, will deny that the assault is having effects, and will exhibit a reluctance or refusal to talk about the assault. Because the "adjustment phase" occurs sometime after the assault (usually 2-6 weeks) you may find a formerly cooperative victim who now does not keep appointments or return phone calls.

No one victim will display all of the emotional or physical responses that are part of the Rape Trauma Syndrome. Individual victims tend to have several of the responses depending on their own psychological profile. How long a victim exhibits these responses also depends on the individual. The victim's psychological responses can either help or hinder the investigation.

Taken from: *The Illinois Sex Crimes Investigation Law Enforcement Manual*

APPENDIX H

POST RAPE TRAUMA SYNDROME: EMOTIONAL STAGES COMMON TO A SEXUAL ASSAULT VICTIM

I. **FIRST STAGE** - Acute stage immediately following a sexual assault

A. Generally characterized by disorganized thinking with a dominant feeling of fear. Other common emotions include shock, disbelief, dismay, humiliation, or embarrassment.

B. **MAY** exhibit any of the following behaviors:

1. Difficulty sleeping
2. Loss of appetite
3. Upset stomach or stomach pains
4. Desire to always be alone or to always be with someone
5. Sobbing
6. Restlessness
7. Tension headaches
8. Anger
9. Complete calm

II. **SECOND STAGE** - Pseudo Adjustment

A. Victim is no longer in acute stage and must now attempt to adjust to the fact she has been sexually assaulted.

B. Victim behaves outwardly as though everything is normal, but, in reality, she may exhibit any number of behaviors, such as:

1. Nightmares in which the victim either relives the sexual assault or seeks revenge on the rapist
2. Loss of appetite
3. Becomes panicky by small events such as simply bumping into a male
4. Constantly wants to change phone numbers

III. **THIRD STAGE** - Integration and Resolution Stage

A. Stage begins when victim develops an inner depression and feels the need to talk

B. Victim comes to realistically accept the event and to resolve her feelings about the assailant.

C. Some people reach the third stage in a day or two and some never reach it. Those who never reach it may suffer severe psychological problems, which could result in institutionalization.

Note: There are no “typical” behaviors for rape victims. One victim may be crying uncontrollably, rocking back and forth, appear in shock, be unresponsive, etc., while another is calm and subdued.

Note: Research indicates that male victims also go through the same three emotional stages as female victims.

Taken from: *The Illinois Sex Crimes Investigations Law Enforcement Manual*.

APPENDIX I

SYMPTOMS REPORTED BY SEXUALLY ASSAULTED PATIENTS

Survivors of trauma have experienced an event that is so overwhelming as to be life changing -- physically, cognitively, and emotionally. The event has such physiological and psychological intensity that it overrides or impairs the individual's neuro-physiological mechanisms of adaptation. The resulting damage is not merely emotional. The person's biological capacity to tolerate and regulate internal and external stimulation can be altered. These changes, compromise the person's ability to organize perceptual stimuli and cognitive information, making them susceptible to a range of somatic illnesses and a spectrum of anxiety and depressive disorders.

Most people equate trauma with physical wounds and injuries that require prompt and specific medical attention. Added to these physical injuries is psychic trauma, defined as an "upsetting experience precipitating or aggravating an emotional or mental disorder." Understanding physiological trauma as a medical disorder improves diagnosis and may diminish the medical, psychiatric, and social complications that result when psychological trauma is unrecognized and untreated.

The somatic symptoms physicians are most likely to note in Emergency Department or later in primary care settings may include:

- | | |
|--|---|
| <ul style="list-style-type: none">• Increased sensitivity to light.• Sound• Touch• Temperature• Taste and proprioception• Skipping or racing heart• Dizzy spells• Headache• Muscle tension in the neck and head• Faintness and light headedness• Chest pressure• Hyperventilation | <ul style="list-style-type: none">• Smothering or choking sensation• Lump in the throat• Tingling or numbness in the hands, arms, feet, and face• Nausea or vomiting• Diarrhea• Sweating unrelated to temperature conditions• Hot flashes or chills• Shaking or trembling of the hands and legs• Rashes resulting from excessive sweating• Hyperventilation resulted from repeated yawning and sighing |
|--|---|

Patients' descriptions of physiological and perceptions include:

- Speeded up or slowed thoughts and movements
- Intensified or reduced emotions
- Dulled or absent emotions and even calm
- Heightened or dulled perception and mental imagery
- Increased control of movements and thoughts or automatic
- Robot-like movements and thoughts
- Feelings of strangeness/unreality or feelings of familiarity
- Panoramic memory or complete or partial amnesia
- Heightened body awareness or physical detachment and anesthetic response

Patients can also report perceptual and memory experiences that might fall into the category of hallucinations or delusions, possibly indicating a brief reactive psychosis. These include:

- Parts of the body changing in size or shape
- Objects seeming large and close or small and far away

- Experiencing events as being highly vivid
- Accompanied by the ability to recall them in exact detail
- Disbelief regarding the incident
- Accompanied by the claim that events had a dream-like and unreal quality

Like other chronic illnesses, PTSD may have delayed onset, variable, and disguised presentations, go into remission, have episodic exacerbations, or require ongoing management. Symptoms PTSD may include:

- Intrusive recollections of the assault
- “Waking flashbacks,” experienced with an intense sense of reality
- Dreams of the assault
- Intense psychological and physiological distress, provoked by the internal and external cues that remind the patient of the attack
- Physiological over-reactivity, including exaggerated startle response
- Avoidance of discussing the attack
- Avoidance of places, people, or things that recall the attack
- Feeling of being apart from other people or that there is no future
- Insomnia, irritability and trouble concentrating

Sexual assault is one of the most significant traumatic incidents. The person endures an event that is outside their control, evoking feelings of such intensity that they literally fear imminent death and/or disfigurement. Adult survivors often recount a combination of blunted and heightened stimulus responses or symptom, including:

- Nightmares
- Difficult falling asleep or staying asleep
- Nausea
- Irritability or outbursts of anger
- Difficulty concentrating
- Hypervigilance and exaggerated startle responses

Taken from: *The American Medical Association, Strategies for the Treatment and Prevention of Sexual Assault*

APPENDIX J

SEXUAL ASSAULT FACT SHEET

In New Hampshire, sexual assault is defined by statute as non-consensual sexual contact or penetration by physical force, by threat of bodily harm, or when the victim is incapable of giving consent by virtue of mental illness, mental retardation, intoxication or being under the age of consent (16 years old). By our statutes, acquaintance rape carries the same penalties as sexual assault committed by a stranger.

Sexual Assault in New Hampshire

According to the NH Violence Against Women and Violence Against Men Surveys of 2006 & 2007:

- Nearly one in four women and one in twenty men have been sexually assaulted.
- The number of women and men combined who have been the victim of a sexual assault could fill Fenway Park almost 3.5 times.
- 22.7% of women have been the victim of sexual assault, with 19.5% having been the victim of sexual assault with penetration.
- In 2011, 834 adult victims of sexual assault in NH sought support services from the 14 crisis centers of the NH Coalition Against Domestic and Sexual Violence.

According to the “Crime in New Hampshire 2011” Report by the NH Center for Public Policy Studies:

- The study found that in 2010, NH had a rape every 21 hours.
- The study also found that 35% of violent crimes in 2010, including ***only 15% of rapes, resulted in arrests***.
- And the study found a significantly different pattern of case dispositions for aggravated felonious sexual assault compared with other crimes. This charge was much less likely to end in a plea of guilty and more likely to be dismissed than all other criminal charges.

Sexual Assault in the United States

According to the 2010 National Intimate Partner & Sexual Violence Survey:

- Nearly one in five women surveyed said they had been raped at some point in their lives, including completed forced penetration, attempted forced penetration, or alcohol/drug facilitated completed penetration.
- 51% of female victims of rape reported being raped by an intimate partner and 41% by an acquaintance and of male victims, 52% reported being raped by an acquaintance and 15% by a stranger.
- 81% of women and 35% of men who experienced rape, physical violence, or stalking by an intimate partner reported significant short and long term impacts related to the IPV such as fear, post-traumatic stress disorder (PTSD) symptoms and injury. Reported health consequences include asthma, diabetes, and irritable bowel syndrome.
- About 35% of women who were raped as minors were also raped as adults compared to 14% of women without an early rape history.

Resources:

The New Hampshire Violence Against Women and Men Surveys

<http://www.nhcadsv.org/uploads/VAW%20Report%20Final.pdf>

<http://www.nhcadsv.org/uploads/VAM%20Report%20Final.pdf>

“Crime in New Hampshire 2011” Report by the NH Center for Public Policy Study

http://www.nhpolicy.org/reports/crimereport_for_web.pdf

2010 National Intimate Partner & Sexual Violence Survey,

<http://www.nsvrc.org/print/publications/NISVS-2010-summary-report>

APPENDIX K

SEARCH WARRANT CHEAT SHEET FOR COMMUNICATION DEVICES

This is not a comprehensive list but is a list of items that officers should consider including whenever they have a case that involves the use of technology:

FOR THE SEARCH WARRANT FACE SHEET:

- The person of Johnny Doe.
- We therefore command you to make a search of the above-mentioned location, vehicles, and person. The search is authorized to be conducted during the night time, or any time of the day, for the following property:
- Any cell phones or hand held communication devices.
- And to examine the cell phones for subscriber and electronic communication documentation specific to this case, in specifically requesting that the search warrant authorize any appropriate law enforcement agency access to the items referred to in the search warrant, the authority to open these items, view their contents, and copy and reproduce all data contained therein as necessary for the investigation and prosecution of this matter.

FOR THE AFFIDAVIT:

- I know through my training and experience that cell phones store data to include text messages, call records, photos, received contacts and other data pertinent to an investigation.
- I know from my training and experience that even if the files were deleted by a user, they still may be recoverable by a trained computer forensic examiner.
- I know from training and experience that files related to the exploitation of children found on computers are usually obtained from the Internet using application software which often leaves files, logs or file remnants which would tend to show the exchange, transfer, distribution, possession or origin of the files.
- I know from training and experience that computers used to access the Internet usually contain files, logs or file remnants which would tend to show ownership and use of the computer as well as ownership and use of Internet service accounts used for the Internet access.
- I know from training and experience that search warrants of residences involved in computer related criminal activity usually produce items that would tend to establish ownership or use of computers and ownership or use of any Internet service accounts accessed to obtain child pornography to include credit card bills, telephone bills, correspondence and other identification documents.
- I know from training and experience that search warrants of residences usually reveal items that would tend to show dominion and control of the property searched, to include utility bills, telephone bills, correspondence, rental agreements and other identification documents.

FOR THE SEARCH WARRANT APPLICATION:

- Based upon the foregoing information (and upon my personal knowledge) there is probable cause to believe that the property hereinafter described as any cell phones or hand held communication devices is evidence used in the commission of a felony crime of Stalking as defined by RSA 633:3-a and is the property of Johnny Doe, and may be found in the possession of Johnny Doe at the residence of Any Street, Anytown, New Hampshire.

- The property I intend to seize as a result of the issuance of a Search Warrant is the following:
 - Any cell phones or hand held communication devices.
 - And to examine the cell phones for subscriber and electronic communication documentation specific to this case, in specifically requesting that the search warrant authorize any appropriate law enforcement agency access to the items referred to in the search warrant, the authority to open these items, view their contents, and copy and reproduce all data contained therein as necessary for the investigation and prosecution of this matter.

APPENDIX L

SAMPLE PRESERVATION ORDER



NEW HAMPSHIRE OFFICE OF THE ATTORNEY GENERAL

Date:

To: _____, Legal Analyst
Company:
Address:
City/State/Zip:
Fax:

Master Case #

ISP PRESERVATION ORDER

You are hereby requested to preserve, under the provisions of Title 18, United States Code, Section 2703(f)(1), the following records in your custody or control, including records stored on backup media:

- A. All information (not to include email), and other files, associated with the account that was assigned **IP Address** _____ **on (day)** _____, **(date)** _____ **at (time)** _____ **AM/PM Eastern Daylight Time (UTC offset of -4/-5).**
- B. All connection logs and records of user activity for each such account, including:
- (1) name;
 - (2) address;
 - (3) local and long distance telephone connection records, or records of session times and durations;
 - (4) length of service (including start date) and types of service utilized;
 - (5) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and
 - (6) means and source of payment for such service (including any credit card or bank account number)
- C. relating to the account assigned **IP Address** _____ **on (day)** _____, **(date)** _____ **at (time)** _____ **AM/PM Eastern Daylight Time (UTC offset of -4/-5).**
- D. Any other records related to the above-referenced names and user names, including, without limitation, correspondence, billing records, records of contact by any person or entity about the above-referenced names and user names, and any other subscriber information.

You are requested to preserve for a period of 90 days the records described above currently in your possession. This request applies only retrospectively; it does not obligate you to capture and preserve new information that arises after the date of this request. **Failure to comply with this request could subject you to liability under 18 U.S.C. § 2707.**

You are also requested not to disclose the existence of this request to the subscriber or any other person, other than as necessary to comply with this request.

Please refer any questions to:

Detective : _____. Telephone Number: _____

Thank you in advance for your cooperation

*Address, Town, NH Zip
PHONE:/ FAX:*

APPENDIX M

CELL PHONE RETENTION CHART



Retention Periods of Major Cellular Service Providers

Data gathered by the Computer Crime and Intellectual Property Section, U.S. Department of Justice

	Verizon	T-Mobile	AT&T/Cingular	Sprint	Nextel	Virgin Mobile ¹
Subscriber Information	Post-paid: 3-5 years*	5 years	Depends on length of service	Unlimited	Unlimited	Unlimited
Call detail records	1 rolling year	Pre-paid: 2 years Post-paid: 5 years	Pre-paid: varies Post-paid: 5-7 years	18-24 months	18-24 months	2 years
Cell towers used by phone	1 rolling year	Officially 4-6 months, really a year or more.	From July 2008	18-24 months	18-24 months	Not retained - obtain through Sprint
Text message detail	1 rolling year	Pre-paid: 2 years Post-paid: 5 years	Post paid: 5-7 years	18 months (depends on device)	18 months (depends on device)	60-90 days
Text message content	3-5 days	Not retained	Not retained	Not retained	Not retained	90 days (search warrant required with "text of text" request)
Pictures	Only if uploaded to website (customer can add or delete pictures any time)	Can be stored online and are retained until deleted or service is canceled	Not retained	Contact provider	Contact provider	Not retained
IP session information	1 rolling year	Not retained	Only retained on non-public IPs for 72 hours. If public IP, not retained.	60 days	60 days	Not retained
IP destination information	90 days	Not retained	Only retained on non-public IPs for 72 hours. If public IP, not retained.	60 days	60 days	Not retained
Bill copies (post-paid only)	3-5 years, but only last 12 months readily available	Not retained	5-7 years	7 years	7 years	n/a [±]
Payment history (post-paid only)	3-5 years, check copies for 6 months*	5 years	Depends on length of service	Unlimited	Unlimited	n/a [±]
Store Surveillance Videos	Typically 30 days	2 weeks	Depends. Most stores carry for 1-2 months	Depends	Depends	n/a
Service Applications	Post-paid: 3-5 years*	Not retained	Not retained	Depends	Depends	Not retained

* May vary by former company

** For records older than mid-Nov. 2007, Sprint can only provide bill reprints with outgoing info

± No bill copies, but list of credit card transactions does not expire

¹ Virgin Mobile is now owned by Sprint. Since companies have separate compliance offices, for now they are listed separately.

August 2010

Law Enforcement Use Only

APPENDIX N

CORROBORATION CHART

Victim's Name: _____

Date of Interview: _____

Alleged Perpetrator: _____

WHAT	
Touch/Contact - oral, anal, vaginal <ul style="list-style-type: none"> On what part of body (clothes or skin) With what (object or body) Penetration 	Pornography (child and adult) <ul style="list-style-type: none"> Magazines/Catalogs Videotapes/DVD Computer Images
Documentation <ul style="list-style-type: none"> Type(s)- diaries, letters, address book, calendar, e-mails, chat rooms, text and instant messaging, blogs. 	Computers <ul style="list-style-type: none"> Disc(s) Zip, jump, hard drives Laptops, handhelds
Weapon(s)/Force <ul style="list-style-type: none"> Type(s) Used, shown or both 	Cameras <ul style="list-style-type: none"> Video (tapes and DVDs) Still (Polaroid, 35mm, digital)
Threats/Bribes <ul style="list-style-type: none"> Type(s)-implicit, explicit Alleged perp's history of violence 	Medical Evidence <ul style="list-style-type: none"> Did victim bleed/hurt? STD's/symptoms
Souvenirs <ul style="list-style-type: none"> Type(s) - hair, underwear, etc. 	Sexual Aids/Device <ul style="list-style-type: none"> Type(s) - lubricants, condoms, dildos
Lures <ul style="list-style-type: none"> Types(s) – toys, cigarettes etc. 	Minute/Latent Evidence <ul style="list-style-type: none"> Type(s) - sperm, hair, fibers, DNA
Alcohol/Drugs <ul style="list-style-type: none"> Type(s): Amounts: Perp and/or victim? 	Records <ul style="list-style-type: none"> Work time sheets Phone bills Bank records/Receipts/Bills
WHO	
Victim <ul style="list-style-type: none"> Clothing Injuries 	Others involved (other victims, perps, witnesses) <ul style="list-style-type: none"> Names and Ages Relationship to victim What did they do, see, etc.
Perpetrator <ul style="list-style-type: none"> Physical Description/Clothing 	
WHERE	
Location <ul style="list-style-type: none"> Home, school, vehicle, outside Description/address Room and furnishings 	Location (continued) <ul style="list-style-type: none"> Who lives there Been there before Other Locations
WHEN	
Time <ul style="list-style-type: none"> Date/time of day 	Time (continued) <ul style="list-style-type: none"> Victim age Where victim was living Who victim was living with

Corroboration Chart

Checklist	Statement	Corroborative Evidence	Consent/Warrant
Date of Birth _____			
Perpetrator			
Perpetrator Description Clothing			
Location Home/apt/etc Room Furnishings			
Victim Clothing			
Timing Date Time of Day Season Holiday			
Gift(s) Defendant Victim			
Siblings			
School			
Weapons(s)			
Documentation Diary Letters Cards			
Literature Books Magazines Catalogs			
Vehicle(s)			
Computer(s) Disc(s) Zip Drives(s)			
Camera(s) Video Videotape(s) Still Photo(s)			
Job(s) Work Records Time Sheets			

Corroboration Chart

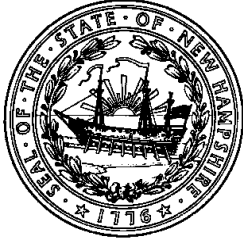
Checklist	Statement	Corroborative Evidence	Consent/Warrant
Phone Records			
Bills			
Bank records			
Receipts			
Minute/Latent			
Child Pornography			
Adult Pornography			
Erotica			
Drugs/Alcohol			
Lure(s)			
Stain(s)			
Address book(s)			
Calendar(s)			
Sexual Aid(s)			
Eyewitness(es)			
Abuse Details			

© 2009 National Association to Prevent Sexual Abuse of Children

Child First

© 2009 CornerHouse

APPENDIX O
SEXUAL ASSAULT/ABUSE FORENSIC MEDICAL FOLLOW-UP
EXAMINATION VOUCHER FORM



Office of Victim/Witness Assistance
NH Attorney General's Office
33 Capitol Street
Concord, NH 03301
(603) 271-3671

Billing Instructions for Health Care Providers:

When a patient has no medical insurance, the State of New Hampshire is responsible for paying for the forensic/medical examination of victims of sexual assault (RSA 21-M:9-c), up to \$800, as well as one follow-up visit, up to \$200, with the medical provider of her/his choice. The patient presenting this \$200 follow-up visit voucher, should not be required to pay any out of pocket costs for the follow-up examination you are performing, and should not be billed for any costs over the \$200 cap. If you have questions please call the Director of the Office of Victim/Witness Assistance, New Hampshire Attorney General's Office at 603 271-3671. **Please mail the original of this Voucher, along with an itemized bill, to the New Hampshire Victim's Assistance Commission at the above address.**

For the Medical Provider: (This voucher is not valid unless the following information is completed.)

I, _____ voluntarily authorize the disclosure of billing information, including

Name of Patient

name, date of birth., diagnosis and procedure codes. The information is to be disclosed by

_____ and is to be provided to the New Hampshire Victim's Assistance Commission

Name and Address of Provider

NH Attorney General's Office, 33 Capitol Street, Concord, New Hampshire 03301. The purpose of this disclosure is to verify patient information so that payment for treatment may be made. The information to be disclosed from my health record is only information related to the care provided to me on _____ and I understand that my

Date

Protected Health Information (PHI) may be re-disclosed and therefore no longer protected under the Privacy Rule. I understand that the Attorney General's Office will maintain the privacy of my PHI in accordance with RSA 21-M:8-c and will not release it without additional authorization. I further understand that I have the right to revoke this authorization in writing except to the extent that it has already been relied upon. The authorization is valid for one year following the treatment date.

Authorized by: _____ Date: _____

Patient Signature

Witness: _____ Date: _____

Relationship to Patient: _____

For the Follow-up Provider: (Please complete the following information so that we can pay you promptly.)

Medical Provider: _____

Federal Employer Identification Number: _____

Remittance Address: _____

Phone Number: _____

APPENDIX P

NEW HAMPSHIRE CRIME VICTIM BILL OF RIGHTS

- Victims of felony crimes committed by an adult offender are entitled to the following rights under NH RSA 21-M:8-K:
- The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
- The right to be informed about the criminal justice process and how it progresses.
- The right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process.
- The right to be notified of all court proceedings.
- The right to attend trial and all other court proceedings the accused has the right to attend.
- The right to confer with the prosecution and to be consulted about the disposition of the case, including plea bargaining.
- The right to have inconveniences associated with participation in the criminal justice process minimized.
- The right to be notified if
- presence in court is not required.
- The right to be informed about available resources, financial assistance, and social services.
- The right to restitution or victim's compensation for their losses if eligible.
- The right to be provided a secure, but not necessarily separate, waiting area during court proceedings.
- The right to be advised of case progress and final disposition.
- The right of confidentiality of the victim's address, place of employment, and other personal information.
- The right to the prompt return of property when no longer needed as evidence.
- The right to have input in the probation pre-sentence report impact statement.
- The right to appear and make a written or oral victim impact statement at the sentencing of the defendant. No victim shall be subject to questioning by counsel when giving an impact statement.
- The right to be notified of an appeal, an explanation of the appeal process, the time, place and result of the appeal, and the right to attend the appeal hearing.
- The right to be notified and to attend sentence review hearings and sentence reduction hearings.
- The right to be notified of any change of status such as prison release, permanent interstate transfer, or escape, and the date of the parole board hearing, when requested by the victim through the victim advocate.
- The right to address or submit a written statement for consideration by the parole board on the defendant's release and to be notified of the decision of the board, when requested by the victim through the victim advocate.
- The right to all federal and state constitutional rights guaranteed to all victims of crime on an equal basis, and notwithstanding the provisions of any laws on capital punishment, the right not to be discriminated against or have their rights as a victim denied, diminished, expanded, or enhanced on the basis of the victim's support for, opposition to, or neutrality on the death penalty.
- The right to access to restorative justice programs, including victim-initiated victim-offender dialogue programs offered through the department of corrections.