

Monongalia County Sexual Assault Response Team Protocol:

A Guide for Responding to Victims of Sexual Assault (2019)

The disciplines represented respectfully include:

MECCA 911
Emergency Medical Services
Victim Advocates
Law Enforcement
Hospital Staff
Prosecution

This document is a guideline for professionals to follow when responding to a sexual assault.
These suggestions are best practices and should be utilized whenever possible.

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Disclaimer:

This protocol is intended to be a guideline to help ensure standardized response and investigation of sexual assaults. Due to the number of agencies involved, personnel, and resources available, not all agencies will be able to adhere completely to the protocol in every instance. Individual agency policies and procedures may take precedence over the protocol. However, this protocol promotes best practice approaches.

Introduction

Historically, a group of individuals from the Monongalia County Community have gathered on West Virginia University's campus to help guide and provide resources to victims of sexual assault.

In 2008, RDVIC expanded their partnership with statewide agencies to help establish the West Virginia Sexual Assault Response Technical Team (WVSARTT) – a team developed to expand on the Sexual Assault Response Team (SART) initiative throughout West Virginia. As a result, the Monongalia County Sexual Assault Response Team (SART) increased collaborative efforts throughout the county to further engage professionals in reducing sexual violence and holding offenders accountable.

The Monongalia County SART currently holds monthly meetings, conducts training events, and provides a vast amount of resources to local agencies and organizations to help raise awareness.

The SART supports the following goals:

- To provide a victim-centered, multidisciplinary response to victims of sexual assault
- To provide culturally competent and accessible services to victims
- To reduce sexual violence in Monongalia County
- To strive to hold offenders accountable
- To build SART capacity
- To maintain victim confidentiality and privacy at all times

Purpose:

The purpose of this protocol is to establish an outline of best practice methods when responding to victims of sexual assault. These guidelines represent a coordinated, county-wide initiative among professionals in Monongalia County to ensure a cooperative and collaborative victim-centered approach to responding to victims of sexual assault.

Key Goal:

The Monongalia County Sexual Assault Response Team (SART) believes that every victim and survivor of sexual assault has the right to expect and should be provided a physical and social environment conducive to empathetic and unbiased care.

Our goal is to ensure, through interdisciplinary collaboration, a responsive, victim-centered service delivery system for all victims of sexual violence. It is our hope to achieve these goals by promoting mutual understanding, supporting Sexual Assault Nurse Examiner (SANE) programs, providing opportunities for educational programs, and establishing protocols and referral systems for medical, legal, and advocacy services for survivors.

Agreement Language:

The purpose of the Monongalia County Sexual Assault Response Team is to provide close coordination among all team members and across disciplines.

All team members share certain goals in the investigation, prosecution, and provisions of services to victims in sexual violence cases. Each agency represented on the team agrees to work toward the creation of a victim-centered protocol for the resolution of such cases.

Each agency agrees to comply with the procedures set forth in the protocol. Each agency agrees that it will remain solely liable for the actions of its team members and that there is no liability to the team by virtue of this agreement.

Participating Members: Monongalia County Prosecuting Attorney's Office; Monongalia County Victim Assistance Program; United States Attorney's Office – Northern District of West Virginia; Morgantown Police Department; Monongalia County Sheriff's Department; Star City Police Department; Granville Police Department; West Virginia State Police – Monongalia County Detachment; WVU Police Department; Rape and Domestic Violence Information Center; Monongalia County Schools – Morgantown High School; Northern West Virginia Center for Independent Living; Monongalia County Health Department; Monongalia County Emergency Services; Monongalia County Department of Health and Human Resources; Monongalia General Hospital; Ruby Memorial Hospital; WVU Healthcare – Student Health; Carruth Center for Psychological and Psychiatric Services; Office of Wellness and Health Promotion; WVU Division of Diversity, Equity, and Inclusion; WVU Office of Student Conduct; WVU Office of Housing and Residential Education; WVU Office of Student Engagement and Leadership.

Partner Roles, Responsibilities, and Information Sharing

The Monongalia County Sexual Assault Response Team has created a multidisciplinary partnership to provide access to sexual assault services that enhance victim safety and privacy. When there is a question about whether a certain approach should be taken by the SART in a given situation, the determining factor will be whether the proposed action will enhance victim safety and privacy. Because partnering agencies have differing roles and responsibilities during the course of an investigation, it has been determined that, as a SART, we will work collaboratively to minimize ongoing trauma to the victim while ensuring the highest likelihood of achieving justice.

I. Role and Duties of MECCA 911 and EMS

Oftentimes, the first contact with a victim in a case of sexual assault is by 911 or EMS personnel, whether the call is made by the victim, a witness, or a professional in the field. Personnel need to have a courteous, victim-centered approach when dealing with victims of sexual assault or the reporting party. The manner in which victims are treated during initial disclosure can have a significant impact on their future decisions.

- A. Determine if the victim is injured or if medical attention is needed. If so, dispatch an ambulance. Be sure to let the caller know that help is on that way.
- B. Obtain the caller's name, address, and telephone number. If the caller is not the victim, obtain the victim's name, address, and telephone number as well.
- C. Determine if there is a need for an accommodation to reduce communication barriers (i.e., language interpreter, communication device, etc.).
- D. Determine where and when the assault occurred.
- E. Determine if the suspect is still present and armed. You should get the name and/or description of the perpetrator(s), especially any identifying information such as tattoos or distinctive marks/features. If the perpetrator has fled the scene, be sure to identify how (i.e., on foot, vehicle make model, direction of travel).
- F. Advise the victim not to change clothing, shower, urinate, or brush hair/teeth.
- G. Dispatch Law Enforcement according to policy. Relay all vital information to the responding law enforcement officer, including any communication barriers that exist.
- H. When possible, stay on the line with the victim until help arrives at the scene. However, in cases where the suspect is still present, it may not be safe for the victim to remain on the phone with the dispatcher and other safety options should be suggested.
- I. Advise victim that he/she can text MECCA if it is unsafe to talk on the telephone.

ADVOCATE RESPONSE PROTOCOL

The rape crisis support represented include:

Rape and Domestic Violence Information Center (RDVIC)
WVU Carruth Center for Psychological and Psychiatric Services
WVU Equity Assurance Confidential Advocates
Monongalia County Victim/Witness Assistance Program

II. The Role and Duties of the Victim Advocate

As a SART, we believe that best practice is to request an advocate any time a sexual assault is reported and allow the victim to determine if s/he would like to work with an advocate (especially during a forensic medical examination and throughout the criminal investigation). Therefore, our team has developed a written protocol, emphasizing the responsibility of first responders to work collaboratively. Advocates should provide meaningful information, emotional support, and advocate for the victim's needs/wants. This involvement should begin at the time the victim reports the sexual assault and extend beyond the point when other agencies have terminated their involvement. Below are steps that an advocate should follow in order to effectively help a victim of sexual assault, regardless of whether or not the victim choose to report the assault to law enforcement.

A. Role of the First Responder Advocate

RDVIC offers crisis intervention services 24/7 and is most often the first responder to a medical advocate request or request from law enforcement. Advocates make every effort to work with various agencies and organizations to ensure a victim-centered response. The formulation of Monongalia County's Sexual Assault Response Team (SART) has contributed a great deal in bringing various disciplines together, all for the purpose of coordinating an immediate, high quality multidisciplinary response to sexual assault. Victims/Survivors of sexual assault can be linked with appropriate agencies and given the necessary resources to make informed decisions regarding steps to help them heal. First responding advocates can assist by:

1. Advocating for the victim's rights and services
2. Protecting and ensuring the victim's privacy
3. Helping to prevent additional trauma or injury to the victim
4. Maintaining constant communication with the victim

B. Coordinating Victim Services

Victim advocates should be involved at the earliest possible time after an assault has been reported. Once services are accepted, the advocate will work with the victim throughout the recovery process. The advocate's role when working with victims and with other disciplines is described in detail below.

C. Advocacy Protocol When Initial Report to Advocate

1. Determine if the victim is in immediate danger and respond accordingly.
2. Explain advocate's role and obtain consent before providing services.
3. Identify and address the immediate concerns of the victim while providing support and information. Providing answers to a victim's questions allows them to make informed choices regarding the next steps.
4. Offer crisis intervention and emotional support to the victim and family.
5. Explain and discuss the importance of medical care to the victim, including the possibility of a forensic medical exam. Encourage the victim to seek emergency services or arrange these services for them if needed.
6. Arrange transportation to and from the hospital if requested. This may include enlisting the help of law enforcement.
7. Answer the victim's questions regarding law enforcement and ask if s/he wants to report the crime to the police. Make sure the victim is aware that they do not have to report this assault to the police.
8. Provide information about the gathering and preservation of physical evidence. Caution the victim against inadvertently destroying valuable evidence by not going to the bathroom, not washing/showering, not changing his/her clothes, not brushing his/her hair or teeth, and not eating or drinking. Explain to the victim that, as time passes, evidence is lost and the forensic medical examination is most preferable performed within 96 (ninety-six) hours of the assault.
9. Offer information to the victim, at the appropriate time, in order for the victim to make informed decisions regarding law enforcement involvement, medical examinations and treatment, and emergency shelter.
10. If the victim is a WVU student provide information regarding accommodations that may be available through WVU Title IX and/or WVU Equity Assurance Confidential Advocates.
11. Assist with referrals and coordinating services and other agencies. Make sure to also offer long term support and guidance.

D. Advocacy Protocol When First Report to Medical/Hospital

1. Respond when notified by local hospital, hotline worker, or law enforcement to arrive at the hospital for a sexual assault as soon as possible.
2. Understand that there may not be any physical signs of injury, but that, at the very least, the victim will be suffering from emotional trauma.
3. Identify yourself and the agency you represent to the hospital staff and law enforcement, if present, as a trained sexual assault advocate. A nurse will introduce you to the sexual assault victim.
4. Explain that all RDVIC services are free and confidential and that s/he has the right to refuse advocacy services. Once the victim has accepted services, explain the role of the advocate. Be sure to identify and address the immediate concerns of the victim and determine if any accommodations will be needed and, if so, assist with arrangements accordingly.
5. Offer crisis intervention and emotional support to the victim and family.
6. If the victim chooses not to accept services, the advocate will provide written information about RDVIC services, referrals, and resources that are available. The advocate will explain that she/he will be in the waiting room for an appropriate length of time in the event the victim changes his/her mind.
7. Explain that if the patient chooses not to report the assault to the police the sexual assault forensic exam kit will be stored up to 24 (twenty-four) months at Marshall University Forensic Science Center in the event there is a police investigation at a later time.
8. Explain that after the expiration of this time, the kit may not be available for testing. However, the victim can still request that an investigation be initiated. There is no statute of limitations on sexual assault cases in West Virginia.
9. Provide information to ease the victim's concerns, answer questions, and make sure that the victim understands the forensic medical exam process and his/her reporting options.
10. Assist with referrals and coordinating services with other agencies.
11. Help to ensure that clothing is provided for the victim if necessary.
12. The advocate should also ensure that the victim has transportation from the hospital. If the victim does not have transportation, the advocate should assist with arranging and/or providing transportation and remain at the hospital until the transportation has arrived. Law enforcement may provide assistance with transportation.
13. Answer any questions regarding medical expenses for the sexual assault forensic exam. Explain that the exam is offered at no charge; however, this does not include preventative treatment (e.g., medication) or treatment for injuries.
14. Make sure the victim knows they have the right to refuse any treatment.

E. Protocol During Forensic Medical Examination

1. With the victim's consent, provide the victim with emotional support and crisis intervention during the forensic medical exam. If the victim chooses to have the advocate present, the advocate will inform the medical personnel that the victim has exercised his/her right to have the advocate present during this process. In doing so, the advocate will be sure to respect the roles of other professionals involved and act as a liaison based on the victim's wants/needs.
2. **Neither the advocate nor the victim should be left alone with the evidence at any time.**
3. Ask the victim if there is anyone they would like to notify. The advocate should offer to call or make arrangements for the victim to call.
4. Discuss recovery issues of sexual assault with family and provide crisis intervention to secondary victims. Back-up advocates may be called in if needed (for secondary victims).
5. Explain to the victim that his/her confidentiality will be maintained throughout interactions with secondary victims.
6. Ask if the victim needs any accommodations and make every attempt to reduce barriers.
7. As an advocate, you should ensure that all their needs are met and continue to provide services to the victim of sexual assault even if they choose not to report the assault to the police.
8. Make arrangements with the SANE (Sexual Assault Nurse Examiner) or Emergency Department Charge Nurse for clothing so the victim does not have to leave the hospital wearing a hospital gown.
9. The West Virginia Prosecuting Attorneys Institute shall pay to a licensed medical facility from the Forensic Medical Exam Fund the cost of the forensic medical exam. Notify the victim that additional non-forensic procedures performed by the licensed medical facility **will not** be paid for. This includes, but is not limited to, **prophylaxis treatment and/or medications, treatment of injuries, testing for pregnancy and STDs.**
10. Inform the victim that other resources may be available to pay for the non-forensic procedures mentioned above. The WV Crime Victims Compensation Fund may cover additional expenses incurred as a result of the assault including charges not covered by the Forensic Medical Exam Fund, if the assault is reported to law enforcement within 72 hours (See the WV Crime Victims Compensation Fund Module for further information.)
11. Follow up with the victim and assist if any further action is needed. If necessary, provide the victim with an RDVIC brochure displaying the advocate's name and contact information.

F. Advocacy During Police Interview

1. Introduce him/herself to the victim, if they have not already met, stating that s/he is an advocate and from which agency.

2. Be sure to define the role of the victim advocate and law enforcement before the interview begins.
3. Make sure the victim knows that s/he has the right to request the advocate's presence during any interviews or meeting which involve him/her.
4. Inform the victim of what to expect during the interview.
5. Explain the nature of the questions that may be asked and that they are not intended to place blame on the victim or attack his/her credibility.
6. Explain that the victim may ask the officer to restate a question if s/he does not understand.
7. You should also explain the importance of being completely honest during the interview, including any drug and/or alcohol use at the time of the assault.
8. Do not interject during the interview.
9. Provide emotional support to the victim. If you see that they are getting overwhelmed, ask if s/he would like to take a break.
10. Provide the victim with an RDVIC brochure.

G. Advocacy During Investigation

1. Be available to act as a liaison between law enforcement and the victim during the entire investigation. This may include: preliminary interviews, follow-up interviews, court proceedings, as well as additional interviewing as needed, with consent.
2. Provide support and information to the victim during the investigation and explain the nature of any questions that may be asked.
3. Explain possible outcomes (i.e. case may not be accepted for prosecution) and help prepare the victim.
4. Encourage the victim to continue participation in the criminal justice system.
5. Discuss precautionary measures for easing fears about victim safety and security.
6. Make referrals and/or provide additional services if needed.

H. Advocacy During Prosecution provided by Mon County Victim/Witness Assistance Program

1. Advise the victim of his/her rights including: the right to attend any court hearings, to be consulted about plea negotiations, to submit a Victim Impact Statement, and to speak at the sentencing.
2. Provide the victim with information on preparing a Victim Impact Statement and assist the victim as needed.
3. Ensure the victim is not in the same waiting area as the perpetrator before court proceedings by working with the Prosecuting Attorney's Office.
4. Be available to accompany the victim to court hearings and provide support.
5. Assess the victim's needs and provide advocacy, information, referrals, and support.

6. Serve as a liaison with law enforcement and the prosecution throughout the entire criminal justice process, with consent.
7. Assist in assessing the safety of the victim and developing a safety plan. Provide, medical, counseling, social service, and other referrals for the victim.
8. Help prosecutors in obtaining information about the case, with consent of the victim.
9. Aid the prosecutor in identifying expert witnesses throughout the community.
10. Support the victim in court and work to accommodate his/her needs.

7. Advocacy for WVU Students

1. Advocates should provide WVU students additional information regarding WVU Equity Assurance Confidential Advocates.
2. Provide information regarding accommodations that may be available to the victim
3. Provide documentation regarding interim measures and resources.

8. Ongoing Advocacy

1. Establish guidelines for continuing services as long as the victim requires emotional support or counseling.
2. Discuss the victim's support system and how to utilize that support to continue healing.
3. Inform the victim that services are always available through RDVIC if needed at a later date.
4. Provide referral and resources for other available community services.

LAW ENFORCEMENT RESPONSE PROTOCOL

The law enforcement agencies represented include:

Morgantown Police Department

Monongalia County Sheriff's Department

Granville Police Department

Star City Police Department

The West Virginia University Department of Public Safety

III. Role and Duties of Law Enforcement

Law Enforcement, in several capacities, plays a crucial role in responding to the crime of sexual assault. Many victims are not only embarrassed about what happened to them, but fearful and confused about the next steps to take. This section of the protocol will outline best practices when approaching a sexual assault victim and/or case. Because of the personal nature of this crime, it is essential that agencies treat the victim with sensitivity and consideration so that the individual can feel empowered and in turn s/he can better provide helpful and accurate

information necessary to the investigation. It is imperative that the victim feels believed, heard, and supported in order to move forward in making informed decisions.

A. Law Enforcement-First Responder Protocol

1. Ensure the immediate safety and security of the victim.
2. Photograph and protect crime scene evidence needed to ensure successful prosecution.
3. Investigate the reported sexual assault and obtain initial information such as perpetrator identification and jurisdiction of offense.
4. Note any evidence of alcohol and/or drug consumption by suspect or victim in the event there is a discussion of drug-facilitated sexual assault (DFSA).
5. Encourage the victim to go to the hospital for a forensic medical examination. An examination can be conducted within 96 (ninety-six) hours post-assault, or longer, depending on the circumstances.
6. If drug-facilitated sexual assault is suspected, notify the SANE/hospital staff immediately so they can work quickly to try to determine what drug might have been used. Since many drugs used for assaults are not detectable after 24 (twenty-four) – 48 (forty-eight) hours, it is crucial that the responding officer relay any symptoms of drug intoxication to hospital staff.
7. If the victim expresses reluctance to pursue a police investigation, inform the victim that s/he may participate in a forensic medical examination and decide later whether to report to law enforcement.
8. The sex crime evidence collection kit can be stored at Marshall University for up to 24 (twenty-four) months and then after this allotted time will be categorized as “non-active”.
9. Upon victim consent, transport him/her to Ruby Memorial or Monongalia General Hospital for examination and treatment.
10. En route, call and notify the hospital that you are bringing in a sexual assault victim and give an estimated time of arrival.
11. If an advocate is not present at the hospital when the officer arrives, the officer should ask hospital staff to contact an advocate to respond to the hospital. Inform the victim once the advocate arrives that they can choose to have an advocate or support person present during the exam.
12. Officers should make arrangements for an advocate even if the victims initially decline services.
13. Before leaving the hospital, schedule a time to complete a follow-up interview with the victim and ask if s/he wants an advocate present. Schedule the use of the soft interview room at Morgantown Police Department.
14. If time allows, the officer shall take possession of the completed kit and immediately send the kit to the West Virginia State Police Forensic laboratory. Otherwise, make arrangements to return to the hospital at a later time to obtain the completed kit.

B. Protocol for Non-Reports to Law Enforcement

1. Sex crime evidence collection kits collected from victims who choose not to report the assault to law enforcement will be sent to Marshall University Forensic Science Center by hospital personnel, where the collected evidence will be stored for potential future use.
2. It is important to note that if liquid samples were collected as a part of the toxicology kit (blood and urine), the samples will have a limited life span and will degrade over time. Refrigeration may be necessary.
3. Should the decision be made to initiate an investigation at a later time in a "non-reported" case, the victim would need to contact law enforcement. The victim may reference the pink "non-report" form provided to the victim at the hospital.
4. If the victim does not have the form, s/he can contact the hospital where the exam was conducted. If an investigation has not been initiated within 24 (twenty-four) months from the time of collection, the sex crime evidence collection kit will be categorized as "non-active".
5. Samples collected as part of the forensic medical examination in "non-active" kits may be used for training purposes once all identifying information has been removed.
6. After the 24 (twenty-four) month time period, if the "non-active" sex crime evidence collection kit has not been used for training purposes, the victim can still request that an investigation be initiated. There is no statute of limitations on reporting sexual assault in West Virginia.
7. The investigating officer may also contact Marshall University on behalf of the victim.

C. Investigating Officer Protocol

1. Victims who have been through a traumatic experience such as sexual assault are often confused regarding the next steps to take, especially when considering reporting the assault to law enforcement.
2. In order to keep victims from "slipping through the cracks," it is important to explain all options to them while you have access to them, whether it is at the hospital or the police station. If an advocate was not initially contacted, arrangements should be made to schedule a follow-up interview and a referral made to the local Rape and Domestic Violence Information Center at (304) 292-5100.
3. If a victim is willing to cooperate with the police, the investigating officer should make every attempt to adhere to the appropriate procedures.
4. Obtain forensic evidence and victim's medical records, with consent.
5. If a victim did have a sex crime kit completed at the hospital and chooses to report to law enforcement, make certain that the kit leaves with an officer from the investigating police department.

6. This agency then makes the necessary submission to the West Virginia State Police Crime Laboratory. The submissions shall take place under all circumstances.
7. **The victim should be notified of any results from the lab pertaining to his/her case or use the advocate as a liaison.**
8. Visit the scene of the crime and obtain search warrants when necessary. Before crime scene evidence is seized, it should be photographed in place.
9. Collect crime scene evidence such as fingerprints, hair, and materials that could contain bodily fluids such as condoms, bedding, towels, victim or suspect clothing, etc.
10. Collect any video surveillance evidence immediately.
11. Identify witnesses and record statements immediately.
12. Conduct the follow-up interview at a time that allows the victim time to sleep and physically recover from the event. Ask the victim if s/he wants an advocate present.
13. This interview should be conducted at the soft interview room at the Morgantown Police Department if possible.
14. This interview should be verbal rather than in the form of a written statement.
15. When conducting the interview, law enforcement will advise the victim that questions in the interview may be extremely personal or seem to discredit them, but that these questions are important and necessary for the investigation.
16. Take notice of any evidence of alcohol and/or drug consumption by either the suspect or the victim, especially if there is discussion of drug-facilitated sexual assault.
17. Evaluate suspect handling and discuss the evidence of the case with the prosecutor prior to arrest if practical.
18. This can be case dependent upon the safety of the victim, the danger level of the suspect, and the needs of the case in order to reach prosecution.
19. Arrest suspect where probable cause has been developed and is supported by admissible evidence.
20. The officer should notify the prosecutor of the intent to obtain a criminal complaint and ensure victim notification of the same.

D. Special Considerations

There are certain factors that may be present in sexual assault cases that can lead the investigation to be conducted differently. This following will address certain distinctions that may warrant additional consideration and steps.

1. Culture

The following should be considered when interacting with victims from various racial or ethnic backgrounds:

- a. Be aware that there are differing cultural beliefs about sexual assault
- b. Understand the extreme stigma associated with sexual assault in some cultures. A victim may be less likely to report due to strong familial beliefs and/or distrust of professional.

- c. Provide referrals to cultural/spiritual-specific agencies if requested, and be sensitive to language barriers. Interpretation and translation services should be provided if necessary.
- d. Do not assume that the perpetrator is of the same race.
- e. Do not assume the sexual orientation of any sexual assault victims.

2. Elderly Victims

The following should be considered when working with elderly victims:

- a. Elderly victims can experience extreme humiliation and shock after a sexual assault and can suffer from symptoms of depression, isolation, and fear. The perpetrator may be a family member or caregiver.
- b. Elderly victims are more fragile and at risk for more serious injuries during and after an assault.
- c. Unintended consequences may occur by reporting this crime to law enforcement or Adult Protective Services. Elderly victims stand to lose a great deal, including their independence. Hearing, language, and cognitive barriers may require certain accommodations. Every effort should be made to meet the needs of a victim. Always as a victim what s/he may need and do not make assumptions.
- d. If an assault occurs in a health care facility, law enforcement is responsible for reporting the incident to Adult Protective Services and other entities.

3. Persons with Disabilities who are Victims

- a. Offenders are often family members or caretaker who repeat the abuse because they assume that victims are not able to report the crime.
- b. Victims may be confused and uncertain about discussing sexual assault trauma. Often times they do not have the language to describe what has happened to them and that it is, in fact, a crime.
- c. Understand that victims with disabilities may be nonverbal or may use a different form of communication such as gestures, diagrams, or demonstrations.
- d. Use simple language or the language of the victim. If you are unable to understand someone, let him/her know.
- e. Victims may have cognitive disabilities and be easily distracted. Rephrasing or repeating statements in a way that avoids ambiguity or confusion may be helpful. Law enforcement should avoid leading or yes/no question and keep sentence length short. When speaking to the victim, you should make frequent eye contact and say the person's name often. Try not to speak too quickly.
- f. Be respectful and patient.
- g. When communicating with a person who is deaf or hard of hearing, approach the person from the front, identifying who you are and looking directly at the person as you

Speak. Do not shout. Immediately find out the best way to communicate, whether it is by speech, lip reading, writing, sign language, or an interpreter.

- h. When communicating with someone who uses a wheelchair, it is helpful to sit at his or her level.
- i. When working with someone who is blind, if a new person enters the room, introduce them. It is also appropriate to touch the person's arm lightly when you speak so that s/he knows you are speaking with her/him. If the person uses a service animal, do not pet or otherwise distract the animal.
- j. Mandatory reporters of abuse and neglect are required to contact law enforcement and Adult Protective Services if they believe that an individual has been sexually assaulted and it is likely that the individual has been deemed incapable of making legal/medical decisions by the court.

4. Suspected Drug-Facilitated Sexual Assault

- a. In a situation where drug facilitated assault is suspected, the officer should take steps necessary to corroborate evidence. This may include interviewing friends, witnesses, etc., who may have come in contact with the victim around the time of the assault.
- b. In cases where the victim reports being unaware of having ingested a substance which would have caused the symptom experienced, ensure that a blood or urine sample is sent to the West Virginia State Police toxicology section for testing. Document type of drugs suspected and include this information in your report and the sex crime kit documentation from with the sample(s).
- c. In cases where the victim reports having intentionally ingested substances which may have caused incapacitation, either send the blood/urine sample(s) to the West Virginia State Police toxicology section or consult with the prosecutor about proceeding further with toxicology testing.
- d. During the investigation, attempt to locate the substance or the cup/bottle/etc. that may have been utilized in the crime.

5. Child Victims

If the victim is a child (under the age of eighteen), the officer must report the incident to Child Protective Services and make a referral to the Monongalia County Child Advocacy Center at (304) 598-0344 if an interview of the child needs to be conducted by the Center.

6. Acquaintance Rape

Acquaintance rape encompasses individuals whom the victim knows or has had repeated contact with, such as friends, neighbors, co-workers, and customers. Understand that sexual

abuse/assault occurs when a person subjects any other person to sexual contact without their consent.

E. Law Enforcement to Victim Seeking Investigation After Initial Non-Report

1. Victims may initially state that they do not want to participate in the criminal justice system or cooperate with law enforcement in turning over forensic evidence for an investigation. In this case, the hospital shall send sex crime evidence collection kits directly to Marshall University Forensic Science Center (MUFSC) without hesitation. It will be stored for up to 24 (twenty-four) months. In the even that a victim changes his/her mind during the 24 (twenty-four) month period and decides to report the sexual assault to police, the responding police department should adhere to the appropriate protocol.
2. Ask the victim to sign a consent form for release of information for appropriate medical records from the hospital.
3. Inquire as to the victim's possession of the kit tracking number, which is located on the pink copy of the "Non-Report to Law Enforcement Consent" form. If the victim does not have the form, s/he can contact the hospital where the exam was conducted.
4. Law enforcement can also contact MUFSC and explain that "victim" wants to initiate an investigation, but does not have the kit tracking number. IF the kit is catalogued, the officer will need to submit a written request on the appropriate form (with victim's name, officer's name, agency, contact information, and badge number) to MUFSC. Once the request is received, the officer will be provided with the kit tracking number.
5. In order to submit the sex crime kit to the West Virginia State Police Forensic Lab, the officer must complete the West Virginia State Police Case Submission Form 53 and mail it directly to the West Virginia State Police Forensic Laboratory. Law enforcement can also elect to travel to MUFSC, sign necessary forms, and transport the kit directly to the lab. Law enforcement is also permitted to subject a request for the sex crime evidence collection kit to be mailed directly to him/her.
6. Once the kit is received via mail, the officer will attach the West Virginia State Police Form 53 and 20 and shall transport/mail the sex crime evidence collection kit to the West Virginia State Police Forensic Laboratory.
7. After the investigation has been initiated, the investigating officer should conduct fact-finding aspects of the investigation and maintain continued contact with the victim.

MEDICAL RESPONSE PROTOCOL

The medical facilities represented include:

Ruby Memorial Hospital

Mon. General Hospital

West Virginia University Student Health (Students Only)

IV. The Role and Responsibilities of Hospital Medical Caregivers

Some victims of sexual assault may initially present themselves at the hospital to receive immediate medical care. Others may have contacted a law enforcement officer or an advocacy agency for help. Regardless of the first point of contact, communities should have procedures in place to promptly respond to disclosures/reports of sexual assault in a standardized and victim-centered manner. Hospitals need to have consistent guidelines in which they assist victims who present themselves at the hospital. Hospital triages need to have a system for categorizing sexual assaults, confidentiality measures must be established, and an advocate should be offered – and if accepted, called in, – and, if the patient consents, a forensic medical examination should be initiated.

Sexual Assault Nurse Examiner (SANE)

A SANE is a registered nurse who has been specially trained to provide comprehensive care to victims of sexual assault and who has demonstrated competency in conducting forensic medical examinations. A SANE provides: a patient-centered approach, consistent care throughout the examination process, a timely medical and forensic examination, and appropriate referral for follow-up care and counseling services in an effort to avoid further trauma.

The goal of the SANE program is to provide comprehensive and consistent care that respects the emotional and physical needs of the sexual assault patient while preserving and collecting the best possible forensic evidence.

A. Registration and Triage

1. Assist in maintaining privacy by referring to the patient by name, not as a rape victim or sexual assault patient.
2. The patient should be triaged as a high priority patient and directed to a private room, if available.
3. Immediately notify a SANE/forensic examiner of the patient's arrival and contact RDVIC to request that an advocate respond to the hospital.

B. Advocacy

1. When the advocate arrives at the hospital, the SANE/forensic examiner should inform the patient that an advocate is available to answer questions and provide free confidential support.

2. If the patient chooses not to access RDVIC services, the SANE/forensic examiner should provide the patient with any brochures or information left by the advocate prior to patient discharge.

C. Pre-Examination Screenings

A complete initial medical screening evaluation should be completed to determine if there are any physical injuries requiring immediate treatment. The SANE/forensic examiner should assure that this step has been fulfilled before starting the sex crime kit.

D. Mandated Reporting

1. If the patient is a minor, 17 (seventeen) years of younger, a referral must be made to the Department of Health and Human Resources, Child Protective Services.
2. For any mandated reporter who believes, suspects, or knows that an adult who is incapacitated is being subjected to, or has the potential to be subjected to, abuse, neglect, or an emergency situation, they must immediately report this to the local Department of Health and Human Resources, Adult Protective Services.
3. If a mandated report needs to be made, contact hospital Social Workers who can help with Child Protective Services/Adult Protective Services referrals. Social Workers may also help with shelter recommendations, transportation, and clothing.
4. The 24-hour hotline to report child/adult abuse and neglect is 1(800)352-6513.

E. Reporting to Law Enforcement

1. **The choice whether or not to report to law enforcement is the patient's decision, except in the following situations:**
 - a. If there is an indication that a dangerous weapon was involved in the assault or if treatment is provided for any injury arising from the discharge of a firearm.
 - b. If the patient is a minor.
 - c. If the patient is an incapacitated adult and the perpetrator is a caregiver or in an authority position over the patient.
2. **In the event that the patient refuses advocate assistance, the SANE/forensic examiner should:**
 - a. Ask the patient if they would like assistance in making a report to law enforcement and discuss the options for reporting timelines.
 - b. Explain non-reporting and reporting procedures. (See the **LAW ENFORCEMENT RESPONSE PROTOCOL** located in this protocol manual for more information on "non-active" kits.)

3. Contact the appropriate law enforcement agency if the patient wishes to involve law enforcement.
4. Remind the patient that they can contact a victim advocate at RDVIC to provide assistance during the investigation process should they report the crime.
5. If appropriate, the patient history and coordinated interview should be obtained simultaneously with the responding or investigating police officer to reduce repeated question. If the victim chooses, an RDVIC advocate should be present. The information obtained should include information that is pertinent to the crime.

F. Non-Report Procedures

1. If a patient decides to make a non-report to law enforcement, the SANE/forensic examiner will be responsible for preparing the forensic evidence while maintain chain of custody to be shipped by private carrier to Marshall University Forensic Science Center (MUFSC). The sex crime evidence collection kit will be stored for up to 24 (twenty-four) months before the evidence will be destroyed or used for training or research purposes.
2. When a victim of sexual assault has a forensic medical examination and decides **NOT** to report the offense to a law enforcement agency, the SANE/forensic examiner **MUST** adhere to the following protocol.
3. The sexual assault patient or guardian **MUST** sign the "Non-Report to Law Enforcement for Victim of a Sex Crime" form. This paperwork, along with the directions and mailing label needed for shipping the sex crime kit can be found in the envelope on the bottom of the sex crime kit.
4. The SANE/forensic examiner must be sure the sex crime kit tracking label is placed on all 3 (three) copies of the Non-Report Consent Form.
5. The pink copy of the form **MUST** be given to the patient at the end of the exam. The kit tracking number is needed should the decision be made to initiate an investigation with law enforcement.
6. It is the responsibility of the SANE/forensic examiner to prepare the forensic evidence, while maintaining the chain of custody, to be shipped by FedEx to Marshall University Forensic Center. The physician, SANE, or other hospital personnel **MUST** contact MUFSC at (304)691-8952 to report that a sexual assault forensic exam kit is ready to be shipped and to secure the FedEx account number. The MUFSC is available Monday through Friday, 8:00 AM to 5:00 PM.
7. The SANE/forensic examiner will put the sealed S.A.F.E kit in a large FedEx mailing box. The pre-printed FedEx shipping label **MUST** be attached to the FedEx mailing box. Should additional boxes be needed to package evidence, hospital personnel should discuss that with the contact at MUFSC. Once a kit has been boxed, sealed, and labeled for shipment, the S.A.F.E kit is then taken to the FedEx shipping and receiving area in the hospital. Date, time, and initials should be recorded on the label at this time. (If FedEx does not have a shipping/receiving area in the hospital, the SANE/forensic examiner must contact MUFSC for directions on how to proceed.)

G. Consent

1. Although completion of each appropriate step in the kit is requested, the examiner has authority to use his/her discretion not to complete one or more steps, based upon consideration of the physical and/or emotional well-being and preference of the patient. The patient also has the right to refuse one or more individual steps of the examination without relinquishing the right to have evidence collected. Consent should be obtained by the following procedures.
2. No examination for the collection of evidence shall be administered without written consent by the patient, parent, or legal guardian.
3. Adults may give consent for examination and treatment.
4. Vulnerable adults may sign their own medical consent if they do not have a guardian. If the victim has a court-appointed guardian and does not object to their notification of the assault, consent from the guardian should be obtained whenever possible.
5. Consent must be obtained from the parent or legal guardian of any victim of minor status, unless they are emancipated or married. In the event that a child presents to the Emergency Department without a parent or guardian, hospital personnel should consult hospital policies and procedures regarding conducting a forensic medical exam without parental consent.
6. SANEs/forensic examiners should discontinue any portion of the process if a patient becomes non-cooperative or expresses resistance.
7. Any concerns or questions the victim has about the forensic examination procedure should be answered by the SANE/forensic examiner. The victim has the right to decline to answer questions or decline any test, and further interaction with medical staff, victim advocates, or law enforcement may be declined at any time.

H. Treatment

1. Patients should be offered prophylaxis treatment for STDs and the nurse should discuss HIV and treatment.
2. Patient should be offered the Early Contraception Pill if the patient is at risk for pregnancy, the pregnancy test has come back negative, or the assault occurred within 96 (ninety-six) hours.
3. Provide the patient with medical instructions and information for follow-up for further STD screening and/or pregnancy tests in two weeks to six months with a personal doctor or local clinic.
4. **Consideration should be given to the filling of prescriptions for antibiotics and the Early Contraception Pill before the forensic medical examination is done so that the patient does not have to wait until the end of the Emergency Department visit.**

I. Evidence Collection Procedures

1. During the course of the sexual assault forensic medical exam, the only people who should be with the patient in the examining room are medical personnel and, with the consent of the patient, a victim advocate. The primary reason for this is preservation of the integrity of the evidence. Further, the custody of any sex crime evidence collection kit and the specimens it contains must be accounted for from the moment of collection until the moment it is introduced in court as evidence. This is necessary to maintain the chain of custody as well as to insure that any foreign DNA does not contaminate the collected sample. It is important to remember that DNA analysis allows information to be obtained from very small amounts of samples (e.g., clothing that has been washed, chewed gum, etc.) as well as from a large variety of specimens such as semen, blood, tissue, saliva, vaginal fluid, and hair.
2. For more detailed evidence collection procedures and instructions, see the WV State Protocol for Responding to Victims of Sexual Assault, Chapter 5: Forensic Medical Exam, Section III: Sex Crime Evidence Collection Kit Procedures.)
3. Provide an in-depth explanation to the victim of how evidence will be collected. Give the patient any information that is available in writing and respond to any questions they may have.
4. Provide the individual with emotional support and reassure the victim that s/he is safe and that what happened is not his/her fault.
5. Advise the victim that s/he does not have to report the sexual assault to the police in order to have the S.A.F.E kit completed and that the kit will be stored up to 24 (twenty-four) months at Marshall University Forensic Science Center in case s/he decides to pursue a police investigation at a later time. (See Section B of the **LAW ENFORCEMENT RESPONSE PROTOCOL** located in this protocol manual for more information on “non-active” kits.)
6. Be sure to collect a urine sample if drug-facilitated sexual assault is suspected.
7. Use the sex crime evidence collection kit to gather evidence if the sexual assault occurred within 96 (ninety-six) hours of the examination and follow the directions as instructed. This examination should not be rushed. Patient consent should be obtained throughout the examination and evidence collection process.
8. If it is determined that the assault took place more than 96 (ninety-six) hours before the examination, the use of a sex crime evidence collection kit may not be necessary, unless circumstances suggest otherwise (i.e., hostage situation time of incident unknown, etc.). However, evidence should still be gathered by documenting findings made during the medical examination (such as bruises or lacerations), by taking photographs and bite mark impressions (if appropriate), and by documenting the patient’s statements pertaining to the assault. **Please refer to individual hospital policy on photographs.**
9. Collect the patient’s clothes, especially undergarments, which were worn during and/or after the assault, based on information provided by the patient. It is not necessary to collect all of the patient’s clothes. In addition, if the patient scratched the assailant, skin tissue should be collected from beneath the victim’s fingernails.

10. Complete a sexual assault information form and include thorough and precisely written documentation. Understand that what is written on this form can have tremendous legal implications.
11. Be certain that the kit is not unattended until it has been completed and sealed to maintain chain of custody. **Neither the patient nor the advocate should ever be left alone with the evidence.**
12. The sex crime evidence kit should be stored in a locked storage until immediately following the examination until it can be picked up by law enforcement or shipped to MUFSC. If blood/urine samples were collected, the entire kit should be refrigerated to preserve evidence.

J. Discharge

1. Prior to the patient being discharged, arrangements for transportation should be addressed. When appropriate, contact RDVIC to assist in making arrangements to transport the patient to a safe place, if not already involved.
2. Be sure that the individual is discharged with appropriate referrals and is provided with area crisis numbers and SART victim packet. Additional community resources should be provided as requested.
3. **NOTE:** Hospitals performing forensic medical examinations should use the WV State Police Sex Crime Evidence Collection Kit. These are provided **free of charge** by the WV State Police Forensic Laboratory and can be ordered by emailing a request to kits@wvsp.state.wv.us. If the request is not responded to in a timely manner, contact RDVIC or WV Foundation for Rape Information and Services at (304)366-9500.

PROSECUTION PROTOCOL

The Monongalia County Prosecutor's Office
Monongalia County Victim/Witness Assistance Program

V. Victim Expectation and the Role of the Prosecutor

A sexual assault victim has been subjected to one of the most traumatic experiences possible. The common expectation is that the prosecutor will represent the victim's interests in what the victim perceives to be his/her case. Prosecutors, on the other hand, do not have the responsibility to represent the personal interests of each sexual assault victim. Their constitutional duty is to represent society in the state's case. This dissonance between victim expectation and prosecutorial role can be a source of conflict and concern. This protocol does not advocate altering the level of discretion entrusted to the prosecutor; however, it does endorse consideration of the victim's needs in the exercising of prosecutorial discretion. A victim-centered and offender-focused response to the prosecution of sexual assault is predicated in the need to protect victim's safety, privacy, and well-being while holding offenders accountable. A sexual assault victim deserves to be informed about the reasons

motivating decisions that may appear to be adverse to his/her interests. Although the State does not represent the interests of an individual victim, they do represent the State's interest in assuring that justice is done.

A. Monongalia County Prosecuting Attorney's Office Victim Advocate Duties

1. The victim advocate associated with the Monongalia County Prosecuting Attorney's Office is involved with the victim from the time of the institution of charges until the conclusion of the case.
2. This victim advocate works in conjunction with assistant prosecuting attorneys, the prosecuting attorney, and outside resources to ensure that the victim's concerns are addressed.
3. Assist the victim in obtaining any crisis intervention services; appropriate references to RDVIC should be made.
4. Be a constant reference for questions, address any concerns the victim may have, and provide emotional support throughout the entire process.
5. Establish a clear understanding about confidentiality of case-related information gained during the process.
6. Establish a procedure to facilitate communication between law enforcement investigators, the prosecutor's office, and the victim.
7. Inform the victim about the Crime Victims Compensation Fund and help in completing the application. Follow-up on the application to ensure that it is processed in a timely manner.
8. Notify the victim of changes to the custody status of the defendant.
9. Notify the victim about any case status changes and when victim court attendance is required.
10. Be an additional resource beyond the prosecuting attorney to answer any questions regarding plea negotiations or pre-trial preparation.
11. Accompany the victim to court and assist the victim and his/her family in remaining separate from the defendant and other witnesses.
12. Support the victim's right to speak at the sentencing.
13. Remain a resource for the victim to contact regarding post-conviction matters including appeals, parole hearings, and for changes in contact information.
14. The victim shall be referred to the community for additional services outside the Prosecuting Attorney's Office. This may include referrals to the local rape crisis center (RDVIC).

B. General Prosecution Protocol

1. Notify the victim of all hearings and changes in schedules
2. Inform the victim about the victim advocates who work for the prosecutor's office versus the advocates who work for RDVIC and discuss confidentiality differences
3. Consider the needs of the victim when scheduling case-related activities (i.e., religious holidays, health requirements, family activities, and occupational requirements).
4. Establish communication methods to avoid unnecessary trips to the courthouse.
5. Keep in constant contact with the law enforcement agency involved to ensure that all of the details of the case are being investigated.
6. Establish and maintain direct liaison with the victim, witnesses, and RDVIC advocate.
7. Recognize the impact that sexual assault has on child and adult victims.
8. Discuss conditions of release with the victim prior to bail hearing and allow the victim to express concerns about the suspected assailant.
9. Request that any suspect assailant's release on bail or release on personal recognizance include a protection order for the victim.
10. Inform the victim how to stay advised of the current detention status of the suspected assailant.

C. Recommendations for Prosecutors

1. Prosecutors should assume ultimate responsibility for informing victims of the status of the case from the time of the initial charge to determination of parole.
2. Prosecutors should charge and pursue, to the fullest extent of the law, defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.
3. When appropriate, prosecutors should strongly discourage case continuances. When such delays are necessary, procedures should be established to ensure that cases are continued to dates agreeable to victims and witnesses, that these dates are secured in advance whenever possible, and that reasons for the continuances are adequately explained.
4. Make every effort to ensure that the media does not print or use the name of the victim in any newscast even though the complaint is public record.

D. Plea Negotiations

1. Inform the victim of reasons to consider a negotiated plea.
2. Describe the potential course of action other than a negotiated plea.
3. Determine what courses of action the victim wants to take.
4. Consider the needs of the victim in accepting a plea (i.e., restitution, protection, and emotional security).
5. Provide the victim with the opportunity to speak at the sentencing hearing.

E. Trial

1. Provide separate areas for the victim and defense witnesses.
2. Attempt to provide court accompaniment for the victim.
3. Keep the victim informed about court schedules, dates, times, and places.
4. Utilize a Sexual Assault Nurse Examiner as a fact or expert witness if he/she has examined the victim.

F. Sentencing

1. Assist the probation department to ensure an opportunity for the Victim Impact Statement to be made part of sentencing considerations (orally or in writing or both). It may be placed in the probation report.
2. Assist the probation department in including the victim's needs as part of the sentence.
3. Comply with the WV Coe 61-11A-et. Sequim (Victim Act of 1984).

G. Post Sentencing

1. Notify the victim about changes in the perpetrator's status by connecting the victim with the appropriate data bases (i.e., WV Vine, Regional Jail Sites, etc.).
2. Cooperate with the State Probation or Parole Board report to assure that victims get notification of scheduled parole hearings. Notify the victim if s/he has the right to communicate with the Parole Board or if s/he has the right to attend.
3. Forward any changes of address known to the prosecutor's office to the State Probation or Parole Office.
4. Vigorously prosecute violations of probation or parole for released defendants.

H. Referring Cases to Federal Prosecutors

If it is anticipated that a case might involve federal crimes, responders should report them to the United States Attorney's Office (USAO). Cases can be referred to the USAO by contacting Assistant United States Attorney Sarah W. Montoro by email at sarah.montoro@usdoj.gov, by telephone at (304)623-7030, or by mail at 320 W. Pike Street, Suite 300, Clarksburg, WV 26301. The types of scenarios which might involve federal crimes or attempted federal crimes include the following:

1. **Cases Involving Sexual Assault of Minor Victims**
 - a. Where an assailant has travelled or transported a minor from, to, or through another state for the purposes of sexual activity
 - b. Where an assailant has used the mail, telephone, or internet to entice a minor to engage in sexual activity

- c. Where an assailant sexually assaults a minor on federal property
- 2. **Cases Involving Sexual Assault of Adult Victims**
 - a. Where an assailant travels from, to, or through another state, or causes a victim to do so, in order to commit a sexual assault
 - b. Where an assailant sexually assaults a victim on federal property
- 3. **Cases Involving Sexual Assault of a Person in Custody**
 - a. Where an individual reports that he/she was sexually assaulted in local, state, or federal custody
- 4. **Cases Involving Interstate Travel to Commit Domestic Violence or Violate a Protective Order**
 - a. Where an assailant travels from, to, or through another state, or causes a victim to do so, in order to commit a crime of violence, including sexual assault, against a domestic partner
 - b. Where an assailant travels from, to, or through another state, or causes a victim to do so, with the intent to engage in conduct that violates a protective order
 - c. Where an assailant commits or attempts to commit a sexual assault, including sexual assaults against domestic partners, on federal property
- 5. **Cases Involving Stalking**
 - a. Where an assailant travels from, to, or through another state in order to stalk another person Where an assailant uses the mail or internet from another state to stalk another person
 - b. Where an assailant stalks someone while on federal property
- 6. **Cases Involving Human Trafficking**
 - a. Where an assailant has obtained, provided, harbored, or transported victims, whether adult or minor, for commercial sex, including child pornography
- 7. **Cases Involving a Failure to Register as a Sex Offender**
 - a. Where an assailant has failed to register as a sex offender