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**This protocol is intended to be a guideline to help ensure standardized responses and investigations of sexual assaults. Due to the number of agencies involved, personnel and resources available, not all agencies will be able to adhere completely to protocol in every instance. Individual agency policies and procedures may take precedence over the protocol.**
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The Cabell County SART is made up of individuals in the following agencies:

Law Enforcement
Barboursville Police Department
Cabell County Sheriff’s Department
Federal Bureau of Investigation
Huntington Police Department
Marshall University Police Department

Prosecutors
Cabell Co. Prosecuting Attorney’s Office

Medical/Hospital Personnel
Cabell Huntington Hospital
St. Mary’s Medical Center
Advocacy
Cabell County Prosecuting Attorney’s Victim Assistance Division
CONTACT Rape Crisis Center

Marshall University Forensic Science Center
WV DHHR Cabell Co. CPS Unit
Goodwill Family Services
Marshall University Staff

Additional Contributing Agencies
**This protocol was adapted from the Duluth, MN SMART Protocol and the West Virginia Protocol for Responding to Victims of Sexual Assault**
Medical Response

There are two main duties performed at the hospitals for sexual assault victims:
- **Medical treatment** – Treatments are provided for injuries, pregnancy testing and prevention, and testing and treatment for sexually transmitted diseases.
- **Evidence collection** – Forensic evidence is collected using a Sex Crime Evidence Collection Kit.

Registration and Triage

*Care of the Patient:*
- The patient should be triaged as a high priority patient.
- The patient should be directed to a private room.
- If possible, one nurse should stay with the patient throughout the exam.
- A female nurse should be assigned.
- An Emergency Department (ED) physician will perform the exam (if a SANE is not present). If neither is available a Nurse Practitioner and/or Physician’s Assistant can perform the exam.

Advocacy

When a patient presents at the hospital as a victim of sexual assault:
- Immediately call CONTACT Rape Crisis Center, the 24-hour advocacy program, at (304) 399-1111, every time a patient presents as a victim of sexual assault. Ask that an advocate respond to the hospital.
- When the advocate arrives at the hospital inform the patient that a trained sexual assault advocate is at the hospital and available to meet with him/her. Ask the patient if s/he would like to meet with the advocate. Either the nurse or the advocate can explain that an advocate can provide support, information, and advocacy and that the services are free and confidential.
- If the patient agrees, introduce the advocate to the patient.

Pre-examination Screenings

A complete initial ‘head to toe’ evaluation should be completed to determine if there are any physical injuries requiring immediate treatment.

Law Enforcement and Mandated Reporting

- Ask if the victim would like assistance in making a report to law enforcement. Discuss options for reporting and timelines. If the patient wishes, contact the appropriate law enforcement agency.
- The choice about whether or not to report lies with the patient, except in the following situations:
Law enforcement must be notified 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.

Any abuse to a minor must be reported to Child Protective Services (CPS) and Law Enforcement (LE) therefore, CPS must be notified if the patient is a minor and the offender is responsible for the minor’s care, in a significant relationship (immediate or extended family member, caregiver or adult residing in the same home) with the minor, in a position of authority over the minor, or if the assault was a result of parental neglect.

Adult Protective Services (APS) must be notified if the patient, 18 years or older, has been deemed legally incapacitated and the offender is in some way responsible for the patient, if the offender is in a position of authority, if the assault was a result of a failure of protection, or if the offender is a staff person from a state regulated facility.

**If a mandated report needs to be made, inform the patient that you must make a report and complete the abuse/neglect reporting form.

Non-Report to Law Enforcement

- Inform the patient that s/he does not have to report the assault to police in order to have a forensic medical examination completed and that the sex crime evidence collection kit will be stored up to 18 months at Marshall University Forensic Science Center in case s/he decides to pursue a police investigation at a later time.
  - If an investigation has not been initiated within 18 months from the time of collection, the sex crime evidence collection kit will be categorized as "non-active". 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.
  - After the 18 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.
- More information on “Non-Reports” can be found in the WV State Protocol under the “Non-Reports” section and in the sex crime evidence collection kit “Non-Report” envelope.

Consent

- Obtain consent for the collection of evidence. No examination shall be done without written consent by the patient, parent or legal guardian.
- Adults may give consent for their own examination and treatment.
- Vulnerable adults who are their own guardian can sign their own medical consent. If they have a court-appointed guardian responsible for making medical and legal decisions, and
they do not object to that person being notified of the assault, consent from the guardian should be obtained whenever possible.

- If the patient is a minor:
  - Consent to conduct a forensic medical examination should be obtained from the parent or guardian of all children under the age of eighteen (18). If consent cannot be obtained from the parent or guardian of the child, and if the child is in danger from his or her surroundings and requires immediate attention, that situation should be reported to Law Enforcement and CPS.
  - In the event that a child presents to an ED without a parent or guardian, the attending medical personnel should consult the hospital’s policies and procedures regarding conducting a forensic medical examination without parental consent.

**Release of Information**

Have the patient sign a Release of Information and distribute to:

- Law enforcement (if patient agrees).
- Patient.
- Hospital (original).

**Treatment**

- Patients should be offered prophylaxis treatment for STDs. Patients should be offered the Early Contraception Pill (ECP) if:
  - The patient is at risk for pregnancy.
  - A pregnancy test has come back negative.
  - The assault occurred within 96 hours.
- Consideration should be given to the filling of prescriptions for antibiotics and the ECP before the forensic medical exam is done so that the patient does not wait at the end of the ED visit.

**Forensic Medical Examination**

**Procedures**

- Provide an in-depth explanation to the patient of how evidence will be collected and what treatments will be offered. Give the patient any information that is available in writing.
- Respond to any questions that the patient may have.
- Provide emotional support to the patient.
- Reassure the patient that s/he is safe and that whatever happened is not his/her fault.
- Always wear gloves for handling evidence.
- Place a sheet on the floor to collect loose evidentiary material. Assist the patient in removing all clothing. Observe the clothing for the presence of stains, tears, missing buttons, dirt, grass, semen, hairs, etc and document as necessary. Place each item of clothing and the sheet in separate paper bags, label (patient’s name, hospital number, kit number, date, name of medical personnel) and seal.
- Use the sex crime evidence collection kit to gather evidence. Follow the sex crimes evidence collection kit directions as instructed. Collect skin, vaginal, perineal, oral, rectal and/or penile swabs, or swabs from additional locations, as indicated by the sexual assault history.
- Perform a pelvic exam/colposcopy. Check for signs of trauma such as abrasions, tears, redness, or swelling.
- Collect samples for cultures if patient is a minor.
- Perform a rectal exam if necessary based on history.
- Photograph any injuries.
  - Photographs of the sexual assault patient should not be taken routinely. Instead, drawings of the human figure should be used to show the location and size of the injury, and be accompanied by a written description of the trauma.
  - Photography should be limited to those instances where there is an opportunity to produce clear photographic evidence of injury, such as bruises or lacerations.
  - If photographs are going to be taken, request consent from the patient.
  - Photographs should be given to the investigator if law enforcement is involved, NOT placed in the sex crime evidence collection kit.
  - It is important that photographs be taken by a competent photographer, preferably of the same sex as the patient, and that a ruler and color chart is used to indicate the size and nature of each injury.
- Meet briefly with the advocate and law enforcement officer (if involved) while all are still present at the hospital to ensure that all medical and evidence collection needs have been met.
- Ensure that the chain of evidence is maintained. Each person who assumes responsibility for the evidence should record their full name in case they need to be contacted in the future, including the nurse, physician, and lab technician. **Neither the patient nor the advocate should ever be left alone with the evidence.** If necessary, the sex crime evidence collection kit can be placed in a locked box or locker until picked up by law enforcement or shipped to MUFSC.
- If law enforcement is involved, cooperate with law enforcement in the collection of evidence.
- If law enforcement is involved, make a copy of the Sex Crime Evidence Collection Kit Patient Information and Sexual Assault History Form and the chain of evidence form and give it to the law enforcement officer.
- If the case is a non-report to law enforcement, the sex crime evidence collection kit will be stored at the Marshall University Forensic Science Center hospital for up to 18 months. If an investigation has not been initiated within 18 months from the time of collection, the sex crime evidence collection kit will be categorized as “non-active”. 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.
  - After the 18 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.
• It is the responsibility of the examining nurse/physician to ensure that the sex crime evidence collection kit is shipped to MUFSC. For further instructions see “Procedures for Handling A Sexual Assault That Was A Non-Report to Law Enforcement” in the WV Protocol for Responding to Victims of Sexual Assault or contact MUFSC directly at (304) 691-8959.

**To order more sex crime evidence collection kits, email kits@wvsp.state.wv.us.

Documentation and Reports

Take a history and complete an accurate documentation of the assault as described by the patient. It is extremely important that this documentation be thorough and objective. 

The report should include:

• Date, time, and location of assault.
• Points of contact and if penetration was attempted or occurred.
• If ejaculation occurred and where.
• If the offender had oral contact anywhere on the patient’s body.
• Any physical pain.
• Any observations of possible evidence noted when assisting the patient in removing his/her clothes.
• If the patient has bathed/showered, changed clothes, douched, eaten or drank, brushed teeth or gargled, urinated, or had a bowel movement.
• Injuries should be documented so that they reflect the level of severity.
• Sexual assault as the presenting problem.
• Any applicable medical diagnoses.
• Objective information.
• No ambiguous terms such as “alleged.”
• No conclusionary statements regarding the truthfulness of the patient or his/her account of the assault.

Follow-Up

• Arrange for further evaluation and follow-up care of any injuries.
• Schedule the patient for a follow-up appointment with his/her primary health care provider within 10-14 days - or sooner if the patient experiences discharge, pain, or lesions.
• Inform all patients that they can receive results of the tests done at the hospital by having them sent to their primary physician, or by calling the medical records department of the hospital.
• Discuss with the patient if there is any concern regarding payment for medical services. Refer the patient to CONTACT and/or the hospital social worker for assistance with those concerns.
• All patients should have follow-up tests for STIs. Follow-up tests for gonorrhea and chlamydia should be in 2 weeks, for syphilis in 6 weeks and for HIV in 6 months.
• Prescribe pain medications as necessary.
• Provide referrals to community resources as appropriate.
  o CONTACT Rape Crisis Center—(304) 399-1111
  o Branches Domestic Violence Shelter—(304) 529-2382
  o Prosecutor’s Office—(304) 526-9872
  o Child Protective Services—1-800-352-6513
Law Enforcement Response

Patrol Officers

Initial Reporting Officers (IRO) are essential to the successful investigation and prosecution of Sex Crimes, therefore, an accurate and thorough victim-centered initial investigation is of utmost importance.

- Ensure victim receives necessary medical care.
- Encourage victim to participate in a forensic medical examination and discuss importance of evidence preservation.
- The IRO will notify dispatch to make contact with the on call CONTACT Rape Crisis Center advocate, and will preferably conduct the interview with the advocate available, given the advocate is willing to work in conjunction with law enforcement.
- The IRO will meet with the advocate prior to the interview and discuss the victim’s request for an advocate to be present.
- If possible, the advocate will meet with the IRO after the interview to ensure contact information has been exchanged.
- Upon notification of a crime of a sexual nature, without regard to type/degree, an officer will respond as soon as possible to the victim’s location for an initial interview, consisting of the victim’s account of the incident (as much as they are willing to initially relay), as well as personal information and valid contact/address information in order to generate the General Case Report.
- The IRO will present the circumstances and case facts to his/her respective supervisor, who will then make the determination as to whether or not a Detective is to be called out for further, immediate investigation.
- Unless extenuating circumstances exist, no more than one IRO should be present while conducting the initial interview. The victim may be in a very vulnerable state, and more officers does not necessarily equate to more trust, and can in fact, detract from the victim’s willingness to disclose important case facts.
- IRO should treat each report as factual, unless substantial information develops that indicates otherwise.
- IRO should utilize Field Notes for details of incident, comments, and/ or description of any unusual circumstances.
- In the event an intoxicated subject reports having been sexually assaulted, the victim should first be transported to a medical facility for a sex crime evidence collection kit prior to being taken elsewhere for detoxification.
  - If the victim is unwilling to accept approved medical transportation or requires assistance finding transportation, the responding advocate will arrange for transportation.
Advocate Involvement

An advocate can work collaboratively with law enforcement and the victim, creating a safe and professional atmosphere, as well as provide emotional support and encouragement for the victim. If the IRO responds to a medical facility (hospital) to conduct the initial interview, an advocate from CONTACT will be automatically called by facility personnel. However, upon arrival at the facility IRO should verify this procedure has occurred. If IRO responds to a different location, the IRO is responsible to have dispatch notify the on call CONTACT advocate.

IRO should:

- Contact the on-call advocate at CONTACT Rape Crisis Center to be present prior to asking the victim if they wish to have an advocate.
- Explain to the victim s/he has the right to have an advocate present.
- Explain that an advocate can answer a variety of questions and provide support throughout the process.
- Ask the victim if s/he would like an advocate to be present.
- If the victim agrees to work with an advocate, provide responding advocate a basic description of the situation.
- If the victim disagrees, IRO should make note in Report/ Field Notes.
- Document advocate notification/contact information/efforts and outcome.

Initial Victim Interview

The purpose of this interview, in addition to obtaining victim’s personal information, is to obtain information concerning the basic elements of the crime, as well as to obtain information needed to determine what evidence might be available.

Prior to conducting the interview IRO should:

- Assess the victim’s immediate medical condition to determine if an interview would be deemed appropriate.
- Offer advocate involvement (see above section).
- Assess need for interpreter or other accommodations.
- Determine whereabouts of suspect and immediate threat level to the victim and officers (if location known).
- Avoid interviewing in presence of suspect and/or potential witnesses.
- Be mindful of primary/secondary witnesses, and obtain contact information for future reference.
- Attempt to comfort the victim and uphold adequate professional standards.
- Meet with the advocate prior to the interview to discuss interview procedures. It is imperative that the presence of an advocate does not interfere or disrupt the interview between the victim and the officer.
During interview:
- Allow/ encourage the victim to speak freely and spontaneously.
- Avoid use of leading or suggestive questions.
- Assure the victim that s/he is safe.
- Reassure the victim that s/he is not responsible for being sexually assaulted, regardless of the situation.
- Explain in laymen’s terms the process:
  o What information is needed for the initial interview/report and why, and that the victim can choose not to file report.
  o The purpose of a forensic medical examination and evidence collection.
  o The decision to prosecute can be made at a later date; however evidence collection needs are immediate.
  o Evidence preservation is extremely important. Any clothing items, fluids, etc. should be considered evidence based on the victim’s account of the assault, and the victim should be encouraged to disclose any item without regard to its seeming insignificance.
- Explain the importance of complete honesty. Attempt to relay that full disclosure is important, and that any misinformation could change the entire course of the criminal case. Stress the importance of being totally honest about any drug or alcohol use, both prior to and immediately after the sexual assault, and reassure the victim no criminal charges will be brought for drug or alcohol use.
- If IRO determines intoxication is an issue, offer BAC test (Intoximeter, PBT, etc) to substantiate.
- Utilizing cognitive interview techniques, establish location/ time frame of incident, description/ identity of suspect, and additional information for crime classification and to identify evidence collection needs.
- Determine if the victim has/is still wearing the same clothing as during the assault. IRO should arrange for collection.
- Determine if the victim or suspect took/ left anything during assault at crime scene.
- Document injuries, overall victim condition, and state of mind.
- If reported more than 24 hours after incident, document reason for delayed report, and attempt to determine reason without inferring blame.
- Inform the victim if additional injuries arise (bruises, etc.) to contact law enforcement or the advocate in order for law enforcement to document/ photograph injuries for evidentiary purposes.
- Inform the victim a Detective/ Investigator will make contact for follow-up information.
- Provide “Crime Victims Information” card, “CONTACT Rape Crisis Center” information, Case Reference Number (CR#), and IRO name and contact information.
- Relay pertinent information to assisting officers if appropriate.
Evidence Collection

Gathering and preserving evidence at the crime scene will be performed under direction of officer in charge of the scene. Obtain search warrant if deemed necessary. Following chain of custody guidelines is critical. Evidence can be collected from a crime scene after 72 hours. Shift Supervisor/ Lead Investigator can make determination for Crime Scene Unit callout when evidence collection is beyond scope of qualified Field Evidence Technician (FET) or other personnel trained and qualified to collect evidence.

Evidence to be considered for collection (along with other similar evidence):
- Bed sheets/ linens
- Clothing
- Articles left/ touched by suspect
- Beverages/ Drugs (including containers) that may have been ingested by suspect/ victim, or may contain DNA evidence

Forensic Medical Examination

Time is a critical aspect when obtaining evidence from the victim. Sperm, seminal fluid, saliva and other biological/physical evidence can and should be recovered from the victim’s body if possible.
- If feasible, IRO should advise the victim not to bathe, brush teeth, or change clothes, and not to urinate if possible until it is determine if a sample should be collected. This will be an area of extreme sensitivity, and IRO should use caution to preserve the victim’s sense of dignity.
- IRO should arrange for transportation, and accompany the victim to the hospital for a forensic medical examination
- IRO should verify medical personnel have conducted approved/ required tests, screening, etc.
- IRO should collect any evidence and turn it in to Property/ Evidence Section.

Reports

Each officer involved in the investigation should carefully document his/ her actions/ involvement (Field Notes) and provide documentation to Lead Investigator/ Detective. Report/ Field Notes should:
- Include as much detail as possible;
- Include appropriate quotes from the victim/ witnesses;
- Include objective observations of demeanor, injuries, clothing, intoxication, etc.;
- Include any indication by the victim/ witness(es) about ingestion of alcohol or other substances, whether intentional or otherwise, and all other medications the victim may have ingested within the previous 24 hours; and
- Be submitted by the end of the shift whenever feasible.
Non-Report to Law Enforcement

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 should send sex crime evidence collection kits directly to Marshall University Forensic Science Center (MUFSU) without hesitation. It will be stored for up to 18 months.

- If an investigation has not been initiated within 18 months from the time of collection, the sex crime evidence collection kit will be categorized as "non-active". 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.
- After the 18 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.

In the event that a victim changes his/her mind during that eighteen month period and decides to report the sexual assault to police, the responding police department should:

- Ask the victim to sign a consent form for release of information for appropriate forensic medical records.
- Have the victim provide 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.
  - OR
    - Law enforcement can contact MUFSU and explain that “victim” (ex: Jane Doe) 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 MUFSU. Once the request is received the officer will be provided with the kit tracking number.
- In order to submit the sex crime evidence collection kit to the WV State Police Forensic Laboratory the officer **must** complete the WV State Police Case Submission Form 53 and mail it directly to the WV State Police Forensic Laboratory **OR**
- Law enforcement can travel to MUFSU, sign necessary forms, and transport kit directly to the lab **OR**
- Law enforcement can submit a request for the sex crime evidence collection kit to be mailed directly to him/her. Then, attach West Virginia State Police Form 53 and transport/mail kit to West Virginia State Police Forensic Laboratory
- After the investigation has been initiated, the investigating officer should:
  - Conduct fact-finding aspects of the investigation.
  - Maintain continued contact with the victim.
Investigation

The detective/investigator should:

- Attempt to contact the victim within 24 hours of receiving the incident report.
- If the IRO has indicated in the report that the victim is not interested in pursuing a case, verify this with the victim; however, inform the victim that s/he can change his/her mind at any point, and refer the victim to CONTACT.
- Conduct an in-person interview if possible.
- Arrange for an advocate to be available during the interview. The advocate can be present, with victims consent, to provide support to the victim but must not disrupt questioning.
- Determine what information is needed before the interview so that all questions can be asked in one interview, as it will be easier for the victim if s/he only has to be interviewed one time. However, it is understood that further information will often need to be obtained after the first investigative interview.
- Provide an interpreter for the interview if needed.
- Utilize resources to make accommodations for individuals with disabilities in order for the victim/witness(es) to participate in interviews (e.g., utilize interpreters/assistive technology, communicate in a manner familiar to the victim).
- Reassure the victim that the sexual assault is not his/her fault.
- Explain to the victim the importance of the interview for clarification purposes and that though some questions may seem pointed, they need to be asked in order to gather evidence for possible prosecution.
- Explain to the victim that it is his/her decision whether or not the investigation will go forward.
- Explain to the victim the charging process and provide investigator’s contact information.
- Encourage the victim to call the investigator with any questions or concerns, and to freely communicate with the investigator.
- Consider the use of a covert tape recorded phone call or meeting between the victim and the suspect. Thoroughly explain what the victim’s role would be when recording the phone call or meeting. Include the advocate when this option is presented to the victim. This method should only be used with the complete understanding and cooperation of the victim.

In addition to the conducting the interview, the detective/investigator should:

- Obtain forensic evidence and the victim’s medical records, with consent.
- Follow up on any information suggesting that substances may have incapacitated the victim during the assault.
  - In cases where the victim reports being unaware of having ingested a substance which would have caused the symptoms experienced, ensure that blood and urine samples are sent to the WVSP toxicology section for testing. Document type of drugs suspected. Include your report and the sex crime kit documentation form with the samples.
  - In cases where the victim reports having intentionally ingested substances which may have caused incapacitation, either send the samples to the WVSP toxicology section, or consult with the prosecutor about proceeding further with toxicology testing.
- Toxicology samples should be stored in a refrigerated container until sent to be analyzed.
- Visit the scene of the crime and obtain search warrants when necessary.
• Obtain consent to search or execute a search warrant on a suspect if necessary.
• Document all interviews from victims, witnesses or suspects. If possible, utilize audio/video recording of all suspect interviews.
• Obtain a copy of the 911 call(s) if applicable.
• Keep the victim and/or advocate informed about the status of the case.
• Evaluate suspect handling and whether or not to arrest. 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.
• Notify the victim when the suspect has been charged, and give the victim contact information for the appropriate victim assistance/victim advocate program.
• If the decision is made not to refer the case for charging, meet with the victim and advocate in order to answer any questions they have.

Working with Juveniles

In the event a sexual assault victim is under the age of 18, special considerations are taken to ensure the victim is interviewed by individuals who have received specialized training, above that of standard interview techniques, in order to appropriately communicate with the juvenile. Although the goals are the same, agencies conduct the investigation with some variation, due to available resources.

• Upon receipt/review of the report, the detective/investigator will immediately contact WV DHHR CPS, or an officer/investigator trained in the Finding Words program, and schedule a forensic interview with trained personnel.
• All common practices and procedures for forensic interviews must be adhered to, without regard to the investigating officer’s individual agency’s standard operating procedure.
• Dependent upon advocate policy regarding age, the investigator will coordinate communication between CPS personnel/forensic interviewer and CONTACT advocates.
• The CPS personnel/forensic interviewer will be responsible for contacting and interacting with the juvenile victim throughout the entire process.
• The CPS personnel/forensic interviewer will be responsible for coordinating interactions with the advocate.
• The CPS personnel/forensic interviewer will be responsible for communicating with the detective/investigator, and will provide a copy of the audio/video interview, along with any other notes or reports the CPS personnel/forensic interviewer has prepared.
• The CPS personnel/forensic interviewer will be responsible for courtroom appearances and testimony in regard to the interview.
• All other aspects of the investigation (suspect interview, evidence collection, etc.) will follow aforementioned standard operating procedures for Sex Crimes.
Prosecution Response

“Sexual assault” for purposes of this protocol includes any of the following acts, or any attempt to commit these acts, involving a person who does not consent or who cannot consent:

- Sexual penetration however slight
- Sexual contact (intentional touching by the defendant of another’s intimate parts, or the clothing over the intimate parts for sexual or aggressive purposes; may also include inducing or coercing another to touch the defendant’s intimate parts)
- Sexual contact or penetration of a child by an older child or an adult if the statutory age difference or position of authority exists

A Note on Legal Consent

Children under age 16 cannot consent to sexual activity. Consent is also not a defense as to children over 16 but under 18 if the perpetrator has either a significant relationship (generally familial) to the child or is more than 48 months older than the child and in a position of authority over the child. Nor is consent a defense, regardless of the age of the victim, in cases involving sexual exploitation by therapists or clergy. A person who is asleep, unconscious, or involuntarily intoxicated cannot consent.

Sexual Assault Prosecution Goal

The goal of the Cabell County Prosecuting Attorney’s Office in the prosecution of sexual assaults is to serve the people of Cabell County and to protect public safety by vigorous and just prosecution of juveniles and adults who commit sexual assault in the county; to provide compassionate support and assistance to victims of sexual assault; and to collaborate with other agencies in the county which investigate sexual assault, supervise offenders, or provide services to its victims to enhance the efficiency and effectiveness of Cabell County’s response to sexual assault.

Prosecution Policies

This office recognizes that sexual assault cases are difficult and require more intensive contact with the victim than most other crimes. The facts are deeply personal, embarrassing, and often complex. These cases, therefore, require extra time and effort to affect a resolution that protects the victim and serves the public’s interest. These cases also require extra time, effort, and cooperation from law enforcement, medical facilities, and victim advocacy services.

The following should be observed:

Prompt Decision to Charge or Decline

- Charging decisions should be made promptly, whether or not the offender is in custody. Thorough evidence is required.
If the case is declined, the request/response sheet must be completed and the investigator notified of the reason for the decline. The declining attorney will then see to it that the victim is notified, and given the opportunity to meet for a further explanation.

Victim-Witness Staff Involvement

- The victim-witness staff shall make contact with the victim as well as to monitor the needs of the victim throughout the pendency of the case. The purpose of early contact is to:
  - Acquaint the victim with how the criminal justice process works, the victim’s legal rights, the victim’s role in the prosecution and the services available to the victim;
  - identify for the prosecutor protection and other issues that need to be addressed in court; and
  - Alert the prosecutor to any problems related to the victim’s ability or willingness to participate in further proceedings, as well as aggravating or mitigating facts in the case.

- The victim-witness staff will maintain contact with and provide support to the victim throughout the pendency of the case. Duties include keeping the victim informed of the status of the case, supporting the victim’s commitment to prosecution, assisting the victim in obtaining a DVP (if requested), making referrals to appropriate outside agencies (such as therapy and support groups), communicating the victim’s concerns to the prosecutor, working with the prosecutor to make sure the victim understands the legal options available, conveying the victim’s wishes regarding disposition to the prosecutor, and explaining the prosecutor’s and/or the court’s decision regarding disposition of the case.

Prosecutor’s Contacts with the Victim

- Prosecutors will coordinate with the victim-witness staff (and other advocates outside the County Prosecuting Attorney’s Office, if any, who are assisting the victim) to establish early and close contact with the victim for the purpose of obtaining additional facts which may be useful in the trial or resolution of the case supporting the victim’s commitment to prosecution, assuring that the victim is informed about the legal options available for disposition of the case, and fashioning an appropriate disposition that takes into account the strengths and weaknesses of the case, the offender’s criminal history and dangerousness, aggravating and mitigating sentencing factors, the victim’s wishes, the victim’s safety, or public safety.

- The prosecutor will solicit and consider the expressed views of the victim, however, the ultimate decision on what plea negotiation is offered and what sentence is recommended by this office is the prosecutor’s.
Corroboration

- Sex crimes are usually non-witnessed, one-on-one situations. While the law does not require corroboration, every sex case will benefit from corroborative evidence, and close attention to the details of the case will almost always suggest ways to corroborate the victim’s account of the incident.
- Prosecuting attorneys should be alert to, and should require investigators to develop, any corroborative evidence. This may include physical evidence, medical evidence, 911 tapes, witnesses in the victim’s chain of disclosure, and any witness who may have heard or seen any corroborating detail.
- Prosecutor interview with the victim may also result in additional evidence.

Avoidance of Delay

Sexual assault victims, in most cases, feel the need to have final disposition of their cases as soon as possible. Generally, cases do not improve with time. Reasonable efforts should be made to avoid unnecessary delay.

Case Disposition and Victim’s Rights

While the prosecutor makes the ultimate decision on what plea negotiation (if any) is appropriate to any particular case, any disposition of a sexual assault case, whether by plea or trial, must comply with the provisions of the Crime Victim Rights Act. This includes making reasonable efforts to notify the victim of the proposed disposition before it takes place, advising the court if the victim’s views are different from the prosecutor’s, and advising the victim of his or her rights, including the right to speak at sentencing.

Prosecution Procedures

Consistent with the goals and policies set forth above, sexual assault cases referred to the Cabell County Prosecuting Attorney’s Office generally proceed as follows:

Intake (decision to charge or decline)

The prosecutor will:
- Promptly review reports submitted by law enforcement to determine whether the case is chargeable.
- Then, either
  - Charge it.
  - Decline it.
  - Request further investigation (RFI).
- If the case is declined, the prosecutor will:
  - Notify the investigating officer of the decision and the reasons for it.
  - See to it that the victim is notified.
Either the victim or the investigator may request a second opinion from the declining prosecutor’s supervisor on any case declined. If the case is charged, the prosecutor will:

- Always protect the victim’s identity in the media and public information.
- Draft the complaint (using victim’s initials instead of name in the complaint).
- Make recommendation for bail, no contact order, or detention status.
- Inform the investigating officer that charges have been filed.
- Provide the investigating officer with a memo or letter listing all additional work needed.
- If DNA testing will be needed, draft appropriate motion and order for first appearance. Or, if suspect is not yet in custody, investigator may be instructed to prepare a search warrant for DNA sample upon arrest.

The victim-witness staff will:

- Notify the victim of charges.
- Provide victim with information regarding his/her rights.
- Advise victim of scheduled hearings and status of case.
- Send Victim Rights brochure.
- Provide victim information regarding the WV Crime Victims Compensation Fund.
- Provide the sexual assault program brochure (CONTACT).
- Provide victim with referral information for counseling and other community resources.

Arraignment/Omnibus Hearing (generally two weeks after initial appearance)

The prosecutor will:

- Review any documented victim input in the file.
- Note any change of circumstances bearing on custody status which has occurred since the first appearance (such as tampering with a witness, or violation of the no contact order, or other conditions of release). If this has occurred, argue to revoke or raise bail.
- Bring motion to compel suspect to submit blood sample if case requires DNA testing and police have not already obtained sample.
- Ask court for finding of probable cause based on complaint with or without submission of additional police reports.
- Make a written notation in the file if defense demands speedy trial.
- Make written notation in the file of the trial judge assigned and all future court dates set.

Pre-trial/Plea Negotiations

Before trial, the prosecutor will:

- Meet with the victim
Non-evidentiary:
- Explain criminal process in Cabell County including timing and the roles of various individuals involved.
- Describe plea and trial options and applicable sentencing guidelines.
- Discuss reasons to consider plea.
- Ask victim if they have any special concerns or requests.
- Discuss aggravating and mitigating factors and the potential for departure.
- Frankly assess and discuss strengths and weaknesses of the case.
- Advise victim of their right to not only attend plea and sentencing hearings, but to express any objections to any plea agreement, either orally or in writing.

Evidentiary:
- Explore additional evidentiary detail.
- Have law enforcement do written summary of supplemental information for disclosure.
- Have investigator complete any follow-up investigation suggested by the interview.

The victim-witness staff will:
- Provide general information to the victim about the criminal process in Cabell County, including timing and the role of the various participants. The victim may also be informed in general about the options of plea and trial on the guidelines sentence applicable to the case.
- Inform the victim of proposed plea negotiation and their right to make a statement, before it occurs and convey victim’s response to prosecutor.
- Advise victim of his/her rights, including the right to attend any court hearings, right to be consulted about plea negotiation, and right to submit impact statement and to speak at sentencing.
- Obtain victim’s input regarding restitution, no contact, or any other potential sentencing issue.

Trial
The prosecutor will:
- Review all of the physical and testimonial evidence the prosecutor will seek to have admitted at trial. Determine chain of custody on all critical physical evidence, including items or specimens submitted for scientific testing. If any physical evidence has not yet been submitted for needed scientific testing, ask the investigator to arrange immediate submission.
- Subpoena or notify all witness, including chain of custody witnesses.
- Make motions for the admission or limitation of evidence (such as Spreigl, victim’s prior sexual history or bad character, hearsay, etc.).
- Determine whether expert witnesses will be necessary, obtain, and interview those witnesses.
• Prepare for and conduct any needed pre-trial evidentiary hearings.
• Prepare the victim for trial.
• Meet with or speak to other witnesses needed at trial.
• If the verdict is not guilty, be available to answer victim’s questions/concerns.

The victim-witness staff will:
• Work to accommodate needs of the victim and other witnesses during trial, such as transportation, daycare, scheduling, safe waiting area, etc.
• Provide ongoing support.
• Coordinate services with community-based advocate, when appropriate.
• Provide regular trial status updates to victim and updates to other witnesses as requested by prosecutor.
• If available, attend court proceedings when the victim testifies.
• Prepare victims for possible outcomes of a trial.
• Notify victim of trial outcome. Facilitate further contact with the prosecutor if needed (including responding to victim’s questions/concerns if the verdict is not guilty).

Pre-sentence Procedures

The prosecutor will:
• Prepare departure motion, if appropriate.
• Make sure investigator has all relevant information relating to sentencing factors.
• Subpoena any witnesses needed for sentencing.
• Meet with victim before sentencing if victim’s testimony is needed to establish record on aggravating circumstances.

The victim-witness staff will:
• Notify victim of result of the plea negotiation or trial.
• Advise victim of the sentencing date and name of judge.
• Advise victim of his/her rights pertaining to the pre-sentence investigation and the sentencing hearing.
• If necessary, assist victim in submitting restitution request and impact statement.
• Communicate with probation officer who is preparing the PSI/PDI.

Sentencing

The prosecutor will:
• Attend sentencing personally, if possible, especially if departure motion, victim in attendance, and/or complicated facts.
- Advise the court if victim wishes to make impact statement or have it read. (Prepare to read it, if necessary.)
- Present all relevant sentencing requests on behalf of the victim.

*The victim-witness staff will:*
- Attend hearing if victim chooses to attend and community-based advocate is unavailable.
- Provide attorney with any last-minute requests of the victim.

**Post-sentencing**

*The victim-witness staff will:*
- Send victim final disposition, in writing, of the case, including a copy of no contact order if issued.
- Notify victim of rights pertaining to inmate release notification and assist with required paperwork, if appropriate.
- Provide victim with information regarding contact person in probation department, or prison caseworker.
- Assist victim with property return.
- Assist victim with Crime Victim Compensation Fund forms.
- Discuss and assess with victim his or her need/interest in ongoing counseling and/or other community resources.
Advocate Response

Advocacy Services

All victim services available through CONTACT Rape Crisis Center are:
- Free and accessible
- Victim-centered and victim-directed
- Non-judgmental and confidential

Advocates are available to:
- Respond to crisis calls 24-hour hours a day through the CONTACT crisis hotline
- Be supportive and empowering
- Give complete and accurate information to allow for informed decision-making
- Offer information on victims’ rights and the responsibilities of systems
- Provide advocacy during forensic medical exams, law enforcement interviews, meetings with prosecutors, and court proceedings
- Take an active role in coordinating the interactions between the various systems and the victim
- Ensure a smooth process by acting as a liaison between systems and the victim
- Offer support to secondary survivors
- Assist with safety planning
- Facilitate healing
- Provide referrals

Training

Each advocate has received a minimum of twenty hours of sexual assault advocacy training. Advocates receive training on:
- Cultural competency
- Crisis intervention/counseling and service limitations
- Advocacy
- Handling child sexual abuse cases
- Mandated reporting
- Secondary survivors
- Medical and legal processes
- Community resources
- History of CONTACT Rape Crisis Center

Crisis Calls

Crisis calls are initiated when people call the 24-hour crisis hotline.

The advocate will:
- Identify him/herself, stating that s/he is a sexual assault advocate for CONTACT.
• Assess the safety of the victim.
  o Is victim physically safe (is victim physically hurt, where is the perpetrator)?
  o Where is victim calling from? Is it safe for victim to talk there?
  o If victim is not safe, the advocate will offer to call for help or request that victim call for help.
• Determine need for additional accommodations.
  o Provide interpreter services if needed, including language translation for non-English speaking individuals or signing for individuals who are deaf or hard of hearing.
  o Interpreters can be reached at Marshall University:

  **Department of Modern Languages**
  Secretary (304) 696-6730
  Spanish, French, German and Japanese speakers

  Department Chair-Dr. Riddel [Spanish Translator]
  (304) 696-2742 Office
  (304) 522-6074 Home

  **Center for International Programs**
  Executive Director-Dr. Clark M. Egnor
  (304) 696-2465 Office
  egnor3@marshall.edu

If the assault occurred within 96 hours, or other circumstances exist:
*The advocate will:*
• Explain the benefits of going to the emergency room.
  o A forensic medical examination can be completed without cooperating with law enforcement. All treatment is confidential.
• If evidence is collected through a forensic medical examination, the evidence can be stored, allowing the victim up to 18 months following the exam to report the incident to law enforcement. If an investigation has not been initiated within 18 months from the time of collection, the sex crime evidence collection kit will be categorized as “non-active”. 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.
  ▪ After the 18 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.
  o The victim will be offered medical treatments (available options could include ECP-early contraception pill, STI testing information, and pregnancy testing).
  o The Forensic Medical Exam Fund will pay for the cost of the forensic medical exam.
o All medical treatment outside of the forensic medical exam will be the responsibility of the victim (e.g., preventative treatment, treatment for injuries); however, resources are available to apply for assistance.

o The WV Crime Victims Compensation Fund is available to assist with expenses as a result of a crime, if application is approved.

- Inform the victim to not change clothing or bring the clothing from the assault, which will be held as evidence, and not to shower, bathe, brush teeth, eat or drink if at all possible. The advocate will inform the victim that s/he may want to bring a change of clothes. Care kits, which include clothing and toiletries, are provided at the hospital when available. Also, the advocate will encourage the victim not to urinate if the victim has not already, or to bring a urine sample to the hospital if possible.
- Ensure that the victim has adequate transportation to the hospital and meet him/her there. If the victim does not have transportation, the advocate may call a taxi which will be paid for by CONTACT.
- Respond to the hospital within 30-45 minutes of the initial call.

If the assault occurred in the past, or the victim chooses not to seek medical treatment:

*The advocate will:*

- Identify and assess any immediate concerns.
- Explain that CONTACT services are free and confidential.
- Provide emotional support.
- Reassure the victim that the assault is not his/her fault.
- Validate the experience and feelings being expressed.
- Respond to any questions and offer information as needed.
- Allow him/her to make informed decisions.
- Discuss the importance of seeking medical care and encourage the victim to do so when appropriate (i.e. more recent assault or if the victim expresses concerns). Discuss alternative locations for seeking medical care (Cabell Huntington Health Department).
- Inform the victim of options for reporting the assault. Explain that other physical evidence can still be collected, even if it is too late for a forensic medical exam. Assist the victim in identifying other sources of physical evidence for law enforcement (sheets, clothing, couch cushions, beverage containers, etc). If the victim decides to report, call 911 and arrange for a preliminary interview. Follow the protocol for law enforcement interviews.
- Explain that an advocate can accompany the victim to law enforcement interviews (pending approval of law enforcement) and court hearings.
- Ensure that victim is comfortable with the decisions s/he has made.
- Give information on other CONTACT services.
- Discuss support systems with the victim and how to utilize that support as needed.
- Assess the need for additional referrals. Give information on other services available and facilitate contact with those services.
- Ask if the victim would like an advocate to follow up with him/her in a few days. Get his/her phone number. Ask if it is safe and comfortable to leave a message at that phone number.
• Document information from the call on an intake form that includes the name(s) and contact information of the victim, police officers, medical personnel, and any other people involved, as well as the victim’s complaint number (if reported to law enforcement).
• Arrange for follow-up. Call CONTACT staff the following day and relay the victim’s name and information, if given permission.

Hospital Advocacy

Each victim of sexual assault is offered the services of an advocate in the emergency department of the hospital. Advocates should be called by emergency department personnel as soon as a victim of sexual assault presents at the hospital. If 911 is called, dispatch will notify law enforcement and/or CONTACT Rape Crisis Center if a victim is at the hospital. If dispatch calls law enforcement and does not call CONTACT then law enforcement will notify CONTACT that a victim is at the hospital, without providing detailed information.

The advocate will:
• The advocate will respond to the hospital within 30-45 minutes of the call.
• The advocate will identify her/himself to hospital staff and law enforcement, if present. The hospital staff should ask the victim if s/he wishes to speak with the advocate (explaining that s/he is a trained sexual assault advocate for CONTACT).
• If the victim agrees, the advocate will be introduced to the victim.
• Explain that all CONTACT services are free and confidential.
• Let the victim know that s/he has the right to refuse advocacy services. The advocate must respect that decision.
• Screen for any needs of the victim.
  o Ensure that interpreter services are provided by the hospital if needed, including language translation for non-English speaking individuals and signing/alternative modes of communication for individuals who are deaf, hard of hearing or have such need.
• Make sure the victim is physically comfortable.
• Provide emotional support throughout the process.
• Normalize and validate the feelings being expressed.
• Be alert to any information in the victim’s recount, including sources of physical evidence other than the victim’s body (sheets, clothing, couch cushions, beverage containers, etc), that would be especially important for law enforcement or medical personnel to know for treatment and evidence collection. The advocate will inform the victim of the importance of highlighting such information during the interview and exam.
• Ensure that the needs of the victim are accommodated as services are provided by nurses, law enforcement, and doctors.
• Facilitate communication between the systems and the victim.
• If law enforcement is involved, request that the officer have a brief meeting with the advocate and medical personnel before leaving the hospital in order to ensure that all medical and evidence collection needs are met when appropriate.
• If law enforcement is not involved or unable to meet with the advocate, meet briefly with the medical personnel in order to ensure that all medical and evidence collection needs are met.
• Offer to call, or make arrangements for the victim to call, a friend or family member.
• Call in a back-up advocate when needed (for secondary survivors, etc). Explain to the victim that his/her confidentiality will be maintained throughout interactions with secondary survivors.
• Provide information on reporting the assault and legal system processes.
  o Victim does not have to report at this time. The evidence can be collected during the exam and used if victim decides to report in the future. However, delays in reporting can often lead to loss of evidence. If the victim chooses not to report the assault, the sex crimes kit should be sent to Marshall University Forensic Science Center where it will be stored up to 18 months. If an investigation has not been initiated within 18 months from the time of collection, the sex crime evidence collection kit will be categorized as "non-active". 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.
    ▪ After the 18 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.
  o An advocate from CONTACT can be made available at any meeting or interview involving the victim.
  o Explain the importance of being honest regarding any drug and/or alcohol use.
• Explain the process of the evidentiary exam and the treatments that will be made available. The advocate will inform the victim that s/he has the right to refuse any treatments. The advocate will also ensure that the following treatments are offered and provided.
  o Pregnancy testing will be performed.
  o If victim is not pregnant, the ECP or Early Contraception Pill will be offered. The advocate will make sure that instructions for use are provided.
  o The evidentiary exam will be completed. Neither the advocate nor the victim should be left alone with the evidence at any time.
  o Information about testing for STIs (Sexually Transmitted Infections) will be provided.
• All medical treatment outside of the forensic exam will be the responsibility of the victim; However, resources are available to apply for assistance.
• If needed, assist the victim in filling out the WV Crime Victim Compensation Form
• Ensure that written information or discharge instructions are given. Explain that victim can obtain the results of tests done at the hospital (e.g. testing for STIs or screening for drugs) can be obtained by having the results sent to her primary physician, or by calling the medical records department of the hospital.
• Give information on other CONTACT services.
• Give the victim a CONTACT services brochure with advocate’s name written on it.
• Ask her if victim would like a CONTACT advocate to follow up with her in a few days.
Get her phone number. Ask if it is safe and comfortable to leave a message at that phone number.

- Ask her if victim has a safe place to go after the exam. If victim needs a safe place to stay, the advocate will help her identify and contact a friend or family member, or call Branches Domestic Violence Shelter (304-529-2382) to arrange for her to stay there.
- Assist her in identifying any additional needs and provide referrals to other services (e.g. Goodwill Family Services, Prestera). The advocate will facilitate contact with those referrals.
- Determine if victim has transportation. If victim needs transportation, the advocate will help him/her identify and contact a friend or family member, or call a taxi. The hospital can pay for his/her taxi fare. This can be arranged through the hospital social worker. Otherwise, CONTACT can pay for the taxi fare.
- Make sure victim gets safely from the hospital room to arranged transportation. The advocate will accompany victim out of the ER to his/her transportation if victim desires.
- Make a report if it is a mandatory situation, involving child sexual assault or a vulnerable adult. Inform the victim if you need to make a report.
- Document information from the call on a separate sheet of paper that includes the names and contact information of the victim, police officers, medical personnel, and any other people involved, as well as victim’s complaint number (if reported to law enforcement).
- Arrange for follow-up. Call CONTACT staff the following day and relay the victim name and information.

**Legal Advocacy**

Advocate involvement in legal advocacy may be initiated at the victim’s request, through advocacy during the evidentiary exam and initial interview at the hospital, through contact from law enforcement when doing an interview, or through contact from the Cabell County Prosecuting Attorney’s office.

**Preliminary Interview**

Advocates can be present at locations other than the hospital when the police are involved and present (with the permission of law enforcement).

The advocate will:

- Consult with the law enforcement officer over the phone and find out basic information about the situation. Ask the police officer:
  - Is the victim requesting an advocate?
  - Is it safe? Will the police be there? Who else will be there?
  - Have they completed the preliminary interview?
  - Where are they located?
  - Will the police still be there when the advocate arrives?
  - Does the victim know the advocate is coming?
• Make a decision as to whether the advocate should go to the scene to accompany the victim during the interview, talk to the victim over the phone, or have the law enforcement officer give the victim written information on CONTACT.

• If the advocate responds, advocate will:
  o Explain the role of an advocate.
  o Assess safety and/or medical needs.
  o Make sure the victim knows that s/he has the right to have an advocate present during any interviews or meetings which involve victim.
  o Let the victim know that s/he has the right to refuse advocacy services. The advocate must respect that decision.
  o Inform the victim that an advocate can provide support to secondary survivors as well.
  o Not interfere with the crime scene.
  o Follow the protocol for providing advocacy during law enforcement interviews.

• If the advocate decides to speak with the victim on the phone, advocate will:
  o Explain the role of an advocate and CONTACT’s services.
  o Assess safety and/or medical needs.
  o Discuss the victim’s support system.
  o Make sure the victim knows that s/he has the right to have an advocate present during any interviews or meetings which involve her.
  o Offer to meet with the victim at a neutral location the following day.
  o Ask the victim if s/he would like an advocate to follow up with him/her in a few days. Get victim’s phone number. Ask if it is safe and comfortable to leave a message at that phone number.

• If the advocate decides to have the law enforcement officer give the victim written information on CONTACT, the advocate will ask the officer to:
  o Explain that CONTACT can provide a variety of valuable services to sexual assault victims.
  o Inform the victim that CONTACT’s number is located on the Cabell County Victim Services card.
  o Encourage the victim to call CONTACT.

**Investigation**

If an advocate is not already involved with the victim, the detective/investigator should call CONTACT to request that an advocate be present at the investigative interview. If an advocate has already been involved, the advocate should take the initiative to contact the investigator to inform them that s/he is advocating for the victim and would like to be informed about the case and be present at all interviews or meetings that involve the victim.

**The advocate will:**
• Follow the protocol for providing advocacy during law enforcement interviews.
• Coordinate communication between the victim and law enforcement.
  o Be present and provide advocacy at all interviews and meetings.
  o Ensure that the victim has access to and knowledge of all reparations available to her (transportation, child care, violent crimes reparations, etc) so that victim can participate in the process.
If the investigation is suspended:
- Inform him/her of his/her right to meet with the detective/investigator on why the case was suspended.
- Arrange for a meeting with the investigator.

**Law Enforcement Interviews**

*The advocate will:*
- Identify him/herself to the victim, if they have not already met, stating that s/he is a sexual assault advocate for CONTACT.
- Screen for any special needs.
  - Ensure that interpreter services are provided by law enforcement if needed, including language translation for non-English speaking victims and signing for individuals with hearing impairments.
- Provide emotional support throughout the process.
- Make sure the victim knows that victim has a right to request the advocate’s presence during any interviews or meetings which involve him/her.
- Provide information on the legal process.
  - Explain that the decision to report the sexual assault or proceed with the investigation does not need to be made at this time.
  - Explain that the fact-finding can give more information to help victim make an educated choice about whether to go forward with the case.
  - Explain that victim can drop out of the investigative process at any point.
- Prior to the interview, the advocate will:
  - Explain the nature of the questions that may be asked, and that they are not intended to place blame on the victim but to elicit information that assists the prosecution in charging the perpetrator at a certain level.
  - Let him/her know that victim can ask the officer to restate a question if victim does not understand.
  - Explain the importance of being completely honest during the interview, including any drug and/or alcohol use.
- Not interject during the interview, in order to not taint the victim’s report.
- Meet with law enforcement after the interview. Tell the officer if something was unclear and if there are clarifying questions that need to be asked, or if there is any additional information that the victim has shared with the advocate and is pertinent to the case. The officer may then question the victim further. Always ask the victim’s permission before sharing any information with the police.
- Ask about what evidence is being or has been collected, and document this information for the victim and for CONTACT. Offer relevant information to the officer.
- Ensure that the victim is aware of the next steps, such as how to access investigators and the timeframe of the investigation.
- Explain the services CONTACT can provide as advocates within the legal justice system, and who the advocates will be.
• Give the victim a CONTACT services brochure with the advocate’s name written on it.
• Ask him/her if victim would like a CONTACT advocate to follow up with him/her in a few days. Get her phone number. Ask if it is safe and comfortable to leave a message at that phone number.
• Give him/her a WV Crime Victim Compensation Fund and inform him/her that CONTACT staff can assist with filling out forms.
• Discuss the victim’s support system.
• Provide information on additional CONTACT services and other resources.
• Document information from the call on a separate sheet of paper that includes the names and contact information of the victim, police officers, and any other people involved, as well as victim’s complaint number.
• Arrange for follow-up. Call CONTACT staff the following day and relay the victim name and information.

Case Charged

Sexual assault advocates are available to provide support and information through a trial.

The advocate will:
• Provide information on the legal process after a case is charged.
• Discuss potential outcomes and a timeline for the case (the average sexual assault case is brought to trial between 6 and 18 months after the initial report).
• Offer to accompany the victim to meetings and court hearings.
• Take the initiative to contact the victim-witness staff and prosecutor to inform them that you are advocating for the victim and would like to be informed about the case and be present at all meetings or hearings which include the victim.
• Attend all meetings and court hearings with victim.
• Provide emotional support throughout the trial or plea negotiations.
• Serve as a liaison between victim, victim-witness staff, and prosecutor.
• Arrange for follow-up services.

Plea Negotiations

The advocate will:
• Provide emotional support.
• Coordinate with the victim-witness staff.
  o Make sure that the victim is aware of plea negotiations.
  o Ask the victim for her thoughts and feelings regarding any plea negotiations/agreement.
  o Arrange a meeting between the victim-witness staff and the victim to discuss possible plea agreements.
  o Make sure the victim-witness staff is aware of the victim’s feelings about the potential plea agreements.
• Ensure that information is provided on the victim’s right to be notified of the perpetrator’s location after being released through Community Notification and Predatory Offender Registration.

**Not Guilty Verdict**

_The advocate will:_
• Provide emotional support.
• Acknowledge and validate the victim’s feelings.
• Validate that the sexual assault occurred, but that it could not be proved beyond a reasonable doubt.

**Guilty Verdict**

_The advocate will:_
• Provide emotional support.
• Explain Pre-Sentencing Investigation or Pre-Dispositional Report (PSI/PDR) process.
• Coordinate with victim-witness staff to help the victim prepare a Victim Impact Statement.
  • Explain the victim’s right to make a Victim Impact Statement at the sentencing hearing.
  • Assist the victim in preparing a Victim Impact Statement.
  • Ensure that either the victim is prepared to read his/her own statement, or that the prosecutor or victim-witness staff will read it for victim.
• Ensure that information is provided on Victim’s Request for Notification (through the Department of Corrections) when the perpetrator is transferred within the prison system and is released.
• Ensure that information is provided on the victim’s right to be notified of the perpetrator’s location after being released through Community Notification and Predatory Offender Registration.

**Case Not Charged**

For various reasons, many sexual assault cases are either suspended by law enforcement or declined by the prosecutor. In these cases, it is extremely important to acknowledge and validate the victim’s feelings, and to provide support and information.

_The advocate will:_
• Provide emotional support.
• Acknowledge the victim’s feelings and experience.
• Validate that the sexual assault occurred.
• Inform him/her of his/her right to meet with the prosecutor on why the case was declined.
• Inform him/her of his/her right to have a review of her case by a supervising prosecutor.
• Arrange for a meeting with the prosecutor, if desired.
• Be present and provide advocacy during meetings.
• Arrange for follow-up services.

**Follow-Up Services**

*The advocate will:*
• Provide information on additional CONTACT services.
  o Crisis hotline
  o Counseling
  o Support groups
  o Safety planning
  o Advocacy
  o Law enforcement interviews
  o Court accompaniment
  o Filing for a domestic violence petition
• Assess the need for additional referrals. Inform her of other services available and facilitate contact with those services.
• Discuss his/her support system and how to utilize that support as needed.
• Let him/her know that advocates are available for ongoing support.

**System-Based Advocates**

*The advocate will:*
• Determine if victim has spoken with a Victim Advocate at the Office of Prosecuting Attorney of Cabell County.
• Identify a plan to work with the Victim Advocate at the Office of Prosecuting Attorney of Cabell County.

**This protocol shall be reviewed and revised whenever policies and practices change to improve the community’s response to victims of sexual assault.**