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SEXUAL ASSAULT PROTOCOL

IN THE SUPERIOR COURTS OF THE OCMULGEE JUDICIAL CIRCUIT

STATE OF GEORGIA

ORDER

WHEREAS, the Legislature of the State of Georgia enacted O.C.G.A. Section 15-24-2 requiring the establishment of a Sexual Assault Protocol; and

WHEREAS, the undersigned established a Sexual Assault Protocol Committee pursuant to O.C.G.A § 15-24-2; and

WHEREAS, the Committee has met on December 29, 2021 and discussed the Protocol, which was approved by a majority vote and which is attached hereto, as the protocol for cases of sexual assault in the Ocmulgee Judicial Circuit of the State of Georgia.

NOW THEREFORE IT IS HEREBY ORDERED, this document is accepted by the Court as the protocol to be used in responding to, investigating and prosecuting cases arising from an alleged sexual assault and shall be spread upon the minutes and filed with the Clerks of the Superior Courts of the Ocmulgee Judicial Circuit.

SO ORDERED, this 29th day of December, 2021.

Hon. Brenda H. Trammell, Chief Judge
Superior Courts, Ocmulgee Judicial Circuit

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OCMULGEE JUDICIAL CIRCUIT SEXUAL ASSAULT PROTOCOL

This Ocmulgee Judicial Circuit Sexual Assault Protocol ("Protocol") is adopted pursuant to O.C.G.A § 15-24-2 for the purpose of outlining the procedures to be used in responding to, investigating and prosecuting cases of sexual assault. The purpose of this Protocol shall be to ensure coordination and cooperation between all agencies involved in sexual assault cases so as to increase the efficiency of all agencies handling such cases and to minimize the stress created for the alleged sexual assault victim by the legal and investigatory process[1].

For purposes of this Protocol, the term *victim* shall refer to victims age 18 and older. Every sexual assault case involving victims under 18 shall refer to the Ocmulgee Judicial Circuit Child Abuse Protocol in identifying appropriate services and resources. Per the state model Child Abuse protocol, those services and resources should include The Bright House in providing services to adolescents in acute cases. In providing services to anyone under the age of 18, DFACS and/or law enforcement shall be notified pursuant to O.C.G. A § 19-7-5.

ADVOCACY

The role of the sexual assault victim advocate[2] is to provide services to the victims of sexual assault regardless of whether or not the victim choses to participate in the criminal justice process. They play a very important role in providing a response that keeps the victim central in the process, allowing the investigation and prosecution to be offender focused. Advocacy also has a critical role in promoting the healing process for the victim. Sexual assault victim advocates provide crisis intervention, support, family advocacy, information and referral and other ancillary services to assist the victim through the criminal justice process. The support provided by the sexual assault victim advocate also benefits the criminal justice process, because supported, well-informed victims are more likely to continue through the process. Advocates will operate under the guidelines established *by The Georgia Crime Victim's Bill of Rights* (O.C.G.A. § 17-17-1) and will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide and the Georgia Sexual Assault Certification Standards*.

Responsibilities of the sexual assault victim advocate include:

- Being available to victims and families 24 hours a day, 7 days a week via a 24-hour crisis line staffed by trained community advocates
- Providing services to victims and families that are sensitive to the unique barriers and special considerations that diverse victims encounter in reporting sexual assault crimes
- Providing options to victims so that they may make informed decisions

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[1] O.C.G.A. § 15-24-2, provided, however that a failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual assault, preclude the admissibility of evidence, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action

[2] Defined as a trained sexual assault victim advocate working with a Georgia certified sexual assault center

- Supporting victims who choose to report to law enforcement by providing a link to eliminate barriers effecting the victim's participation in the criminal justice process
- Maintaining victim confidentiality
- Offering services to non-reporting victims and assisting if and when the victim decides to report

Victims may also work with systems based victim advocates if the case progresses through the criminal justice system to the point of prosecution.

LAW ENFORCEMENT

The role of the investigating officer is to ensure the safety of the victim and the community and to ascertain if the report of sexual assault meets the elements of a crime under Georgia law. Within their jurisdictions, law enforcement will investigate sexual assault crimes. Investigative responsibilities include:

- Identification, apprehension and interrogation of suspect(s)
- Interview of victim with an offender focused and trauma informed approach, which includes allowing an advocate to be present
- Interview of witnesses
- Collection and preservation of evidence
- Maintenance of chain of custody
- Timely submitting sexual assault evidence collection kits to GBI crime laboratory regardless of whether a suspect has been identified, per GBI recommendations
- Review of GBI Crime lab reports as soon as possible after they are released to investigating agency, per GBI recommendations
- Determination of probable cause and arrest
- Preparation of case reports with investigative summaries
- Assistance to District Attorney's office in prosecution of case
- Testimony and presentation of evidence in court

Investigating officers will work with victim advocates to ensure a victim centered response to the investigation and proper notification of case updates to victims. Additionally, law enforcement officers will operate under the guidelines established *by The Georgia Crime Victim's Bill of Rights* (O.C.G.A. § 15-17-1) and adhere to best practices as outlined in the *Georgia Sexual Assault Team Guide.*

MEDICAL FORENSIC EXAMINATION PROCEDURES

The role of the medical forensic personnel is to provide a timely, high-quality medical forensic examination that can potentially validate and address sexual assault patients' concerns, minimize the trauma they may experience, and promote their healing. At the same time, it can

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increase the likelihood that evidence collected will aid in criminal case investigation, resulting in perpetrators being held accountable and further sexual violence prevented.

Medical forensic exams should be made available if patient chooses to report, chooses not to report, or chooses to report anonymously.

Medical forensic examinations shall be performed by a Sexual Assault Nurse Examiner ("SANE"), physician, nurse practitioner or physician's assistant ("PA") trained in performing such exams.

Medical forensic responsibilities include:

- Obtaining informed consent from the patient for the medical forensic examination, documentation and evidence collection
- Gathering the medical forensic history
- Conducting a physical examination
- Coordinating treatment of injuries
- Documentation of biologic and physical findings
- Collection of evidence from the patient
- Documentation of findings
- Providing information, treatment, and referrals for STIs, pregnancy
- Follow-up as needed for additional treatment and/or collection of evidence.
- Providing testimony at trial

BIOLOGIC EVIDENCE COLLECTION

The SANE, physician, nurse practitioner or PA will collect biologic samples at the request of a patient, in accordance with currently accepted protocol (defined as the *National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents*), to obtain timely biologic reference samples for possible analysis at the GBI Crime Lab. At the conclusion of the sexual assault medical forensic examination, any evidence collected will be packaged and protected in a manner to ensure the integrity of specimens and the appropriate chain of custody of the evidence.

All biologic evidence will be collected up to a minimum of 120 hours after assault. In addition, cases should be evaluated on an individual basis as the medical forensic examination may be completed beyond 120 hours.

All biologic samples, fluids, hairs and other evidence requiring GBI analysis will be given directly to the case investigator for processing using a proper chain of evidence.

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Pursuant to SB 304/O.C.G.A. § 35-1-2, it shall be the duty of every law enforcement officer who takes possession of the evidence collected during a sexual assault forensic medical examination to ensure that such evidence is submitted to the division within 30 days of it being collected.

Urine collected for analysis can be collected up to 120 hours and may be submitted to the Georgia Bureau of Investigations Crime Lab, the Federal Bureau of Investigations Crime Lab or other private lab for toxicology drug screen.

All biologic evidence collected at the request of a patient who chooses not to initiate and participate in and/or cooperate with a law enforcement investigation shall be preserved and stored as agreed upon by the particular law enforcement agency and medical facility

REQUESTS FOR MEDICAL FORENSIC EXAMINATION

With the consent of the patient, medical forensic examinations can be performed at the request of (1) a law enforcement agency, (2) the District Attorney's Office, (3) the medical examiner or coroner's office, (4) a hospital, (5) pursuant to a court order, or at the patient's request pursuant to O.C.G.A. 17-5-72.

COSTS OF THE MEDICAL FORENSIC EXAMINATIONS

The cost of examinations shall be paid pursuant to O.C.G.A § 16-6-1(c), O.C.G.A § 17-5-72. Patients shall not be responsible for the payment of medical forensic examination costs.

CONDUCT OF THE MEDICAL FORENSIC EXAMINATION

A SANE, physician, nurse practitioner or PA will perform the examination and assessment.

Medical forensic examinations and biologic evidence collection should be completed as quickly as possible after a report is received.

Medical forensic examinations and biologic evidence collection shall be conducted in accordance with Georgia Bureau of Investigation (GBI) procedures using a GBI Sexual Assault Evidence Kit. It is also recommended that medical forensic exams be conducted in accordance with the *National Protocol for Sexual Assault Medical Forensic Examinations*.

A trained victim advocate will be available to accompany the patient and offer emotional support during the examination. The advocate will at no time ask the patient questions related to the details of the assault.

The SANE, physician, nurse practitioner or PA will complete appropriate authorizations relating to the examination.

The SANE, physician, nurse practitioner or PA will photograph and document injuries and prepare a report.

The SANE, physician, nurse practitioner or PA will maintain and document the chain of custody of any evidence collected during the examination and assessment.

The SANE, physician, nurse practitioner or PA will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide*.

PROCEDURES for HOSPITALS RECEIVING WALK-IN REPORTS OF SEXUAL ASSAULTS

Hospitals and/or Health Departments receiving patients reporting incidents of sexual assault shall immediately contact law enforcement in accordance with O.C.G.A § 31-7-9 mandating all non-accidental injuries be reported. Patients will retain the right not to initiate, participate in, and/or cooperate with any law enforcement investigation of such assault.

PROSECUTION

The role of the District Attorney's office is to protect the rights of the victim while holding the offender accountable. Prosecutors should work in a collaborative fashion with law enforcement, medical forensic and victim advocates. Prosecutors will operate under the guidelines established *by The Georgia Crime Victim's Bill of Rights* (O.C.G.A. § 15-17-1) that state, for example, that victims have the right,

- To be treated fairly and with dignity by all criminal justice agencies involved in the case
- To proceedings free from unreasonable delay
- To reasonable, accurate and timely notice of an court proceeding where the release of the accused will be considered
- To reasonable, accurate and timely notice of court proceedings or any changes to such proceedings, including restitution hearings
- To reasonable, accurate and timely notice of the accused's release and/or monitoring program
- To be present at all criminal proceedings in which the accused has a right to be present
- To NOT be excluded from any scheduled court proceedings, except as provided in O.C.G.A. § 17-17-1 or otherwise provided by law
- To a waiting area, during judicial proceedings, that is separate from the accused and his or her relatives, friends and witnesses
- To be reasonably heard at any scheduled court proceedings involving the release, plea or sentencing of the accused

- To complete a Victim Impact Statement and have it presented to the court prior to the trial or plea of the accused (O.C.G.A. § 17-10-11)
- To refuse to submit to an interview by the accused, accused's attorney or agent of the accused.
- To a requirement by the court that defense counsel not disclose victim information to the accused (O.C.G.A. § 17-17-10)

If a victim attends any court proceeding, a victim advocate will be available to accompany the victim.

Prosecutors and prosecution based advocates will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide.*

LOCAL SART COORDINATED RESPONSE

All members of the Ocmulgee Judicial Circuit Sexual Assault Response Team will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide (available summer 2017).*

Members of the Ocmulgee Judicial Circuit Sexual Assault Response Team agree to meet annually for case review, discussion and evaluation to assure the coordination and cooperation between all agencies responding to sexual assault cases in the Ocmulgee Judicial Circuit.

Pursuant to O.C.G.A § 15-24-2, members of the Ocmulgee Judicial Circuit Sexual Assault Protocol Committee agree to meet annually to review, update and evaluate this Sexual Assault Protocol.

The foregoing Ocmulgee Judicial Circuit Sexual Assault Protocol is hereby adopted and replaces any previously adopted protocol and remains in effect until such time as said protocol is amended and adopted.

[SIGNATURES ON FOLLOWING PAGES]

This 29th day of December, 2021.

DocuSigned by:
William C. "Bill" Massee, Jr.
William C. Massee, Jr. (or designee)
Baldwin County Sheriff's Office

DocuSigned by:
Donnie Harrison, Sheriff of Greene County, GA
Donnie Harrison (or designee)
Greene County Sheriff's Office

DocuSigned by:
Sheriff Tomlyn T. Primus
Tomyln T. Primus (or designee)
Hancock County Sheriff's Office

DocuSigned by:
Donnie Pope, Sheriff of Jasper County, GA
Donnie Pope (or designee)
Jasper County Sheriff's Office

DocuSigned by:
R. N. "Butch" Reece, Sheriff of Jones County, GA
R. N. Reece (or designee)
Jones County Sheriff's Office

DocuSigned by:
Robert S. Markley, Sheriff of Morgan County, GA
Robert S. Markley (or designee)
Morgan County Sheriff's Office

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Howard R. Sills, Sheriff of Putnam County, GA
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Richard L. Chatman, Sheriff of Wilkinson County, GA
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Chief Dray Swicord, City of Milledgeville
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Milledgeville Police Department

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Chief Mike Hall
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T. Wright Barksdale, III, District Attorney, Ocmulgee Judicial Ci
T. Wright Barksdale, III (or designee)
Ocmulgee Judicial Circuit District Attorney

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Hon. Shane Geeter (or designee)
Baldwin County Magistrate Court

DocuSigned by:
LaVerne C. Ogletree, Chief Magistrate, Greene County, GA
Hon. LaVerne C. Ogletree (or designee)
Greene County Magistrate Court

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Hon. Shirley Ingram (or designee)
Hancock County Magistrate Court

Hon. Timothy L. Lam (or designee)
Jasper County Magistrate Court

DocuSigned by:
Hon. Lewis J. Patterson (or designee)
Jones County Magistrate Court

DocuSigned by:
Connie S. Holt, Chief Magistrate, Morgan County, GA
Hon. Connie S. Holt (or designee)
Morgan County Magistrate Court

DocuSigned by:
Christyne Thomas Holmes, Assoc Magistrate, Putnam County, GA
Hon. Dorothy Adams (or designee)
Putnam County Magistrate Court

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Lisa V. Dykes, Chief Magistrate, Wilkinson County, GA
Hon. Lisa V. Dykes (or designee)
Wilkinson County Magistrate Court

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Michelle Dickens
ACC Sexual Assault Nurse Examiner

DocuSigned by:
Johnna Smith, Program Director, The Bright House
Joanna Smith
The Bright House

DocuSigned by:
Alison T. Burleson
Judge, Superior Court
Ocmulgee Judicial Circuit