



**CALIFORNIA'S
SEXUAL ASSAULT
TRAINING STANDARDS**

A Trainer's Guide

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The movement to end sexual violence has transformed and as a result CALCASA in partnership with the California Governor's Office of Emergency Services (Cal OES) has made updates to the required training topics for the Sexual Assault Counselor Training. These revisions are included in the 2019 updated *California's Sexual Assault Training Standards: A Trainer's Guide*.

We know that in order to meet the needs of survivors we need to intentionally honor culturally diverse perspectives, experiences, and the autonomy of people and the value they bring. We also need to understand and work with the systems with which victim/survivors interface. The changes in this guide leave room for flexibility of tailoring the training to meet the unique needs of each community.

CALCASA is proud to share the updates to the *California's Sexual Assault Training Standards: A Trainer's Guide* in order to advance the efforts of our field to end sexual violence.

A handwritten signature in blue ink, appearing to read 'Sandra Henriquez', is positioned above the printed name.

Sandra Henriquez
Chief Executive Officer

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FOREWORD

Welcome to *California's Sexual Assault Training Standards: A Trainer's Guide*. Thank you for joining with us to end sexual violence. This guide was originally produced in 2004, thanks to the many friends, supporters, and colleagues who contributed to the original guidelines. Where we are in the field now is different from where we were a few short decades ago; though this content is still important and relevant, the context in which we're operating as Rape Crisis Centers and coalitions is in many ways quite different.

This Guide contains teaching points to be covered for each topic of the 40-hour minimum training requirement for sexual assault victim counselors. Offering standardized training topics with suggested teaching points achieves consistency for Rape Crisis Centers throughout the State of California and allows Centers the flexibility of tailoring training to the unique needs of their community.

This guide covers the required sexual assault counselor training topics in compliance with California Evidence Code 1035.2 and the sections that follow; teaching points and resources to support each training topic; and sample forms, procedures, and other supplemental information. Trainers are not expected to cover each topic to the depth covered in this guide within 40 hours of training. Subsequent training may be used to focus on these topics in depth.

A note on language: As part of the update of this manual, we have chosen to modify some of the language that is used. We also use the word "survivor" unless the context makes "victim" more appropriate (such as in legal situations). Other changes are explained in *CALCASA's Support for Survivors: Training for Sexual Assault Counselor/Advocates in the 21st Century* :

While females are overwhelmingly the targets of sexual violence, we recognize that boys, men, and gender non-binary are also sexually victimized. We have chosen to use the singular "they" "their" and "them" as gender-inclusive pronouns, despite the acknowledgement of gender disparities in victimization, and because the English language lacks a good alternative for gender variant identities. This use of the singular "they" is becoming more common and less likely to make English teachers and editors wince.

For the most part we have also chosen to use the term "counselor/advocate" rather than "sexual assault counselor," despite the fact that California statutes refer to the latter. This is because the term "counselor" is often understood to refer to a mental health professional (and advocates are usually lay people), and because the role of an advocate encompasses more than just counseling.



ACKNOWLEDGMENTS

CALCASA gives thanks to California Governor’s Office of Emergency Services (Cal OES) for its partnership in the development of the updated training standards and for its generous support, guidance, and trust.

CALCASA is proud to be able to provide California’s Sexual Assault Training Standards: A Trainer’s Guide as a resource for Rape Crisis Centers throughout the State of California and wishes to express its deepest appreciation to CALCASA’s Sexual Assault Training Certification Standards Committee for contributing to this guide, and the field of sexual assault victim services.

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INTRODUCTION

This guide is intended to serve as an outline for the initial training you provide to counselor/advocates as well as a resource document for later training and discussion. It should be used in conjunction with *CALCASA's Support for Survivors: Training for Sexual Assault Advocates in the 21st Century*. As you begin training new participants, you will want to encourage them to read each section of the advocacy manual as you teach that topic, and then to return to the manual after they have gained some practical experience that will help bring the information to life. As a trainer, you can also turn to the advocacy manual for additional resources that can make lessons more vivid.

In this guide, we offer foundational information for counselor/advocates based on research, California law, and best practices. You will undoubtedly round out the training by describing your own Rape Crisis Center's mission, history, policies, practices, and philosophy as they apply to each topic. Examples of commonly encountered advocacy issues will help participants understand the principles of working with sexual assault survivors in the real world.

For those new to the field, this is the beginning of an exciting (although challenging) adventure. We approach the training with a broad-angle anti-oppression lens, helping beginning counselor/advocates understand that sexual violence is rooted in broader societal issues. The aim of advocacy is not only to help and support the individual survivor, but also to address systemic issues that harm survivors or promote sexual violence, to enhance public awareness and understanding of sexual assault, to help other professionals develop a compassionate and effective response to survivors, and to move our communities closer to social justice.

While these lofty goals are an important part of the education of a new counselor/advocate, specific skills must also be developed. How do you deal with a person who talks about suicide? What is an effective way to make a referral? What are the steps in a criminal case? How can you support a survivor through a forensic medical exam? What should you do when you feel overwhelmed? How do you work with abused children and their families? What resources do intimate partner sexual violence survivors need? How can you work with an immigrant who is fearful of seeking services in today's political climate? What are some aspects of the work that are specific to your community and your Rape Crisis Center? Participants will wonder about these questions and so many more.

One of the most helpful things you can do as a trainer is to provide a clear explanation of the process of learning how to be a counselor/advocate in your program. Trainees will need to know the expectations and requirements of the role for which they are preparing. You will reassure them that the mountain of information they are about to receive will become more manageable as they begin to observe experienced counselor/advocates and then work under supervision. Create an atmosphere in which questions are welcomed and trainees know how to seek help when it is needed.

For easy reference, this chart describes each of the topics required for the initial training of counselor/advocates, along with the minimum amount of time that must be allocated to each unit:

TOPICS	MINIMUM REQUIRED HOURS
Unit A - Overview of Sexual Assault	4
Unit B - Discrimination and Oppression	4-6
Unit C - Child Sexual Abuse	3
Unit D - Teen Sexual Abuse	3
Unit E - Crisis Intervention	6
Unit F - Referral Resources and Methods	1
Unit G - Multidisciplinary Engagement	2.5
Unit H - Medical	2
Unit I - Law Enforcement	2
Unit J - Legal and Court	1.5
Unit K - Agency Procedures and Requirements	2.75

Consult the Table of Contents for this guide to see the subtopics under each unit topic.

Please note that the following units require a Subject Matter Expert to provide information:

- **Unit E** – Crisis Intervention: Experts such as a Suicide Prevention Team are required to present the section on suicide prevention.
- **Unit H** – Medical: A medical professional such as a Sexual Assault Nurse Examiner (SANE) or a Sexual Assault Forensic Examiner (SAFE) is required for this unit.
- **Unit I** – Law Enforcement: A member of your local law enforcement agency will serve as the Subject Matter Expert.
- **Unit J** – Legal and Court: Generally, the expert will be an attorney from your local District Attorney’s office.

Even when the Subject Matter Expert is the primary presenter for a particular unit, you will be expected to ensure that all required topics are covered. It is important to clearly communicate exactly what information must be taught, and to be prepared to fill in if any topics are omitted. You will also want to be prepared to answer questions and to “connect the dots” between the information presented and your own Center’s expectations of counselor/advocates.

As you develop your curriculum, you will want to closely follow the guidelines in the *Sexual Assault Counselor Training Application for Certification* that must be submitted to Cal OES. They provide guidance on what may and may not be included. For example, you must limit your use of audiovisual training tools such as DVDs to no more than 10% of total sexual assault training hours, with certain exceptions that are noted on the application.

This guide describes the content of the training you will provide, but it is up to you to use your knowledge of adult learning styles to create engaging lessons. Each trainer has their own style, but a combination of slide presentations, discussion groups, activities, and opportunities for individual reflection will enhance the learning experience for trainees. *Support for Survivors* includes “Questions for Discussion” and “Questions for Reflection” on each topic that can serve as the basis for some of these activities.

Your role in developing skillful, compassionate, knowledgeable counselor/advocates is crucial to moving our field forward and offering essential services to survivors and your community. Even experienced trainers will find new information and a bit of fresh inspiration in this revised Facilitation Guide. CALCASA is available to support you on your training journey.

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Unit A – Overview of Sexual Assault

TOTAL REQUIRED HOURS: At least 4 Hours

The purpose of this section is to provide a broad framework for understanding sexual violence historically, culturally, and globally. Doing so will help counselor/advocates better identify connections between the various acts of sexual violence and abuse.

1. Introduction and History of Sexual Assault

History of the Rape Crisis Center Movement in the Context of the Women’s Movement

- The first stage of the women’s movement began in 1848 when women sought the right to vote in elections and own property. In 1920, women won the right to vote after the ratification of the 19th Amendment to the U.S. Constitution.
- The civil rights movement sparked the second stage of the women’s movement during the 1960s. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of sex and race.
- The women’s movement, in turn, spawned two major social movements on behalf of women in the late 1960s and 1970s—the anti-rape movement and the social movement on behalf of battered women.
- The anti-rape movement developed through “Speak Outs,” in which women gathered and recounted stories of victimization by perpetrators and by the individuals and systems responsible for helping them.
- The first “Speak Out” was held in New York City in 1969. In 1971, Bay Area Women Against Rape (BAWAR) established the first Rape Crisis Center in the U.S. The Washington D.C. Rape Crisis Center, established in 1972, was also among the first.
- Over the past 40 years, the anti-rape movement has been successful in improving the way sexual assault survivors have been treated by the criminal justice and medical systems. Educational

programs have increased public understanding of the crime, and rape law reforms have created fairness and justice.

History of the Role of Women of Color

- Women of color have been politically active for centuries in the face of multiple axes of oppression. However, their role in the women’s movement is marked with tension and marginalization. Differences in priorities revealed the fallacies underneath the assumed universality of the women’s movement, which has historically been characterized as white, able-bodied, middle class, Christian, and heterosexual.
- Despite the women’s movement’s historical ties to abolitionism, the 15th Amendment exposed the latent racism among some white suffragists. Following the Civil War, statutory rape laws targeting black men arose throughout the South. Civil rights leader Ida B. Wells urged women’s suffragist Frances Willard to address the lynching epidemic. Rather than recognize the racial violence, Willard instead claimed black men were aggressive alcoholics and a danger to white women, symbolic of the women’s movement’s prioritization of white women at the expense of black women and their communities.
- Throughout the 20th century, women of color were active in ensuring that advancements for women necessarily included the concerns of people of color, which were typically not central to the organizing priorities of middle class white women such as lynching, and segregated public education. The 1960s and 1970s continued to demonstrate the inextricability of racism and sexism in the US, with an explosion of diverse women of color activism. This expanded the women’s equality platform beyond that of employment, wages, and reproductive health to include issues that disproportionately impacted communities of color such as police surveillance/harassment, anti-poverty, housing, multi-lingual access and opportunity.

- During the 1980s, the womanist and mujerista movements grew as a reaction against white feminism for black women and Latina women respectively. Other women of color likewise carved out their own spaces within the feminist movement, wherein their cultural values and concerns can exist at the forefront.

Story Describing Development of Your Agency

- Founders, Year of Origin, and Date of Incorporation
- Agency Philosophy
- Agency Milestones of Development

Development of Local Coordinated Community Response

- Relationship with law enforcement agencies and the crime laboratory;
- Relationship with District Attorney's Office and Victim Witness;
- Relationship with forensic medical examination team and/or medical examination facility;
- Relationship with other Rape Crisis Centers in the region, domestic violence shelters, homeless shelters, and so on;
- Relationship with local therapists for referral; mental health, substance abuse treatment and social service agencies; and the ability to make psychiatric referrals, if indicated;
- Relationship with local college and university campuses;
- Relationships with local military bases (if applicable);
- Relationships with local jails/prisons/detention facilities (if applicable);
- Relationships with elected officials (e.g. city council, Board of Supervisors); and
- Any other community relationships your agency has that assist in a coordinated response for survivors.

2. Types and Definitions of Sexual Assault

“California Penal Code section 261 defines ‘rape’ as an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another, or if the victim is intoxicated, incapacitated, or otherwise unaware/unable to freely give consent. Sexual assault is a broad umbrella term that encompasses a range of violations of a sexual nature.”

Statistics (National, State and Local)

- Provide local statistical information such as:
 - Your Rape Crisis Center annual statistical data;
 - Local law enforcement agencies' annual statistical data (e.g. sexual assault crimes reported and sexual assault crimes investigated, including community profiling as to where these crimes occur in your community);
 - District Attorney's annual statistical data regarding case filing, trials, convictions, and plea bargains; and
 - Medical forensic examination team data regarding how many exams are performed per year.
- See NISVS New National Study with State Report for state and national statistical information. <http://www.calcasa.org/2017/04/nisvs-new-national-study-with-state-report/>

Definition of Sexual Assault

- The broad definition of sexual assault is non-mutual, nonconsensual sexual contact.
- For legal definitions of sexual assault crimes, including age considerations and mental capacity, see California Law online: <http://leginfo.ca.gov> (California Penal Code Sections 261-269).
- Consent is defined in California Penal Code Section 261.6 as “positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261 (rape), 262 (marital rape), 286, 288(a) or 289.”

Brief Descriptions of Types of Sexual Assault

- Facilitators should feel free to turn the following list into a handout for distribution to counselor/advocates.
- Facilitators should go through each of the terms/concepts and their descriptors with counselor/advocates.

List of Terms – Criminal Sexual Actions

Stranger Sexual Assault	Perpetrator is unknown to the victim. Stranger sexual assault was once believed to be the most common type of sexual assault. In truth, most sexual violence occurs by people who know each other at least by sight.
Serial Rape	A stranger rapist committing a series of rapes using a distinctive pattern of sexually assaultive behavior. These perpetrators often target similar types of victims, sometimes in the same neighborhoods or areas of a city.
Gang Rape	Gang rape means multiple perpetrators and typically involves young male perpetrators. These groups of men or boys usually have a close affiliation either through school, work, or a social group. There are increased numbers of reported cases of girls' involvement in gang rape by luring and setting up the victim for sexual assault.
Spousal Rape	Spousal rape is defined as intercourse or penetration (vaginal, anal, or oral) obtained by force, violence, duress, menace, or fear of immediate and unlawful bodily injury, or when the wife/partner is unable to consent as a result of an intoxicating or controlled substance, or is unconscious of the nature of the act.
Same-Sex Sexual Assault	Same-sex sexual assault occurs when the victim and the perpetrator are of the same gender. This does not necessarily mean that the perpetrator identifies as Lesbian, Gay, Bisexual, Transgender and Queer or Questioning (LGBTQ) since the majority of perpetrators identify as heterosexual. However, some sexual assault does occur in the LGBTQ community. See CALCASA's Support for Survivors: Training for Sexual Assault Counselor/Advocates in the 21st Century and Focusing on Pride: Sexual Assault Prevention in the LGBT Community Part I published by CALCASA for further information.
Intimate Partner Violence	Intimate Partner Violence (IPV) is physical, sexual, or psychological harm perpetrated by current and former partners or spouses. This type of violence can be found in heterosexual, same-sex, and queer relationships, and exists along a continuum from a single episode of violence to an ongoing pattern of abuse.

Acquaintance Rape and Date Rape

These two terms are frequently used interchangeably in various publications. The majority of sexual assaults fall into this category.

Acquaintance rape involves a broad range of casual relationships and generally means the perpetrator is someone the victim recognizes by sight or someone known fairly well. This could be the next-door neighbor, a school custodian, an ex-boyfriend, the friend of a friend, a gardener, or someone who knows the victim’s environment. Acquaintance rape can be a spontaneous act of opportunity or planned days or hours in advance.

Date rape means there is a social invitational engagement or agreement that has social and/or romantic overtones or expectations. Alcohol and drugs are sometimes a significant factor in date rape. Date rape can be a spontaneous act, or planned days or hours in advance. This term is becoming outdated, and often both acquaintance rape and date rape are simply described as “nonstrangers rape.”

The closer the relationship, the less likely the survivor will report the crime.

Believability is an issue of concern for the survivor. Believability and credibility are the issues considered by sexual assault investigators.

Alcohol and Drug Facilitated Sexual Assault

Alcohol is the most prevalent date rape drug. It is sometimes used for delivery of the drugs listed below, in which case, the victim is subjected to a polydrug episode.

GHB, Rohypnol, and Ketamine are drugs that are administered surreptitiously to incapacitate a potential victim. These drugs are sometimes taken voluntarily, usually in a social setting or event, because of the “high” effect they can produce. This, however, can cloud a person’s judgment and ability to give consent to any sexual activity, possibly leading to a sexual assault.

These drugs cause uninhibited behavior, impaired judgment, loss of consciousness, amnesia, respiratory distress, nausea, convulsions, dizziness, muscle relaxation, slowing of physical ability to respond, coma, and even death.

Testing of survivors during the forensic medical examination is important to detect the presence of these substances for medical intervention and criminal justice apprehension purposes.

For further information, see Appendix A: Alcohol and Drug Facilitated Sexual Assault.

Other Types of Sexually Abusive, Assaultive, or Exploitive Behavior

- Facilitators should take care to distinguish between criminal (i.e. rape) and civil (i.e. sexual harassment) violations. While many of these abusive and exploitive actions as described may not be criminal, they are considered violations of personal safety that occur within the same sexual arena as sexual assault.
- Further, many of these behaviors function as “smaller” assaults that may eventually escalate into criminal acts. Finally, some of what is listed below, again while not criminal (i.e. sexual harassment, adult pornography), contributes to an overarching rape culture that dismisses this behavior, allowing it to become “normalized.”
- While counselor/advocates may encounter these situations less frequently than the criminal behaviors listed above, they should be knowledgeable and conversant in these areas.

Sexual Harassment

Sexual harassment is unwelcome sexual advances; requests for sexual favors; other verbal, visual, or physical conduct of a sexual nature; sexual innuendo; offensive jokes; and repeated unwanted invitations. Sexual harassment also occurs when employment decisions or expectations (e.g. hiring decisions, promotions, salary increases, shift or work assignments, performance expectations) are based on an employee’s willingness to grant or deny sexual favors.

Voyeurs/peepers

Historically, a perpetrator who stalks the neighborhood and watches women undressing through windows. Some perpetrators live in a neighborhood or apartment building and watch through binoculars. Cyber voyeurism involves computer technology.

Flashers/ exhibitionists

Perpetrators who hide in concealed areas (e.g. shrubbery, buildings, bridges) and expose their genitals to women and children passing by; or, may sit in their car and call out to women and children asking for directions in order to expose their genitals.

Obscene phone calls

Made by persons harassing specific individuals or by randomly calling phone numbers. These calls may or may not include sexually explicit language.

Child pornography

A visual depiction of a minor engaged in sexually explicit conduct. Visual depiction includes photographs, slides, movies, magazines, books, videotapes, and DVDs.

Adult pornography

A visual depiction of people ranging from “soft” pornography, involving images of individuals in various poses partially clothed or not clothed, to “hard” pornography, often involving harsh and violent depictions of women of a sexual nature.

Sex trafficking of children and/or immigrants

Selling children and/or immigrants for sexual use.

3. Trauma of Sexual Assault and Long-Range Effects

Most sexual assault survivors sustain significant psychological trauma regardless of:

- the relationship between the perpetrator and victim;
 - whether there was drug or alcohol use prior to the assault;
 - the method of attack;
 - the presence or absence of physical injuries; or
 - whether the assault is attempted or completed.
 - Sexual violence makes victims feel as though their bodies are not their own, which contributes to a sense of powerlessness.
 - Psychological trauma may create difficulty in utilizing coping strategies and problem-solving skills. Survivors may subjectively perceive continued threats to their body, life, or sanity, even after the physical threat is gone.
 - Based on life circumstances and resources, different survivors will exhibit different reactions to an assault.
 - Counselor/advocates are to guide survivors through their healing process regardless of how “minor” or “extreme” we may deem the assault and the survivor’s reaction.
 - Be sure to review each term and concept in detail with the counselor/advocates.
 - Rape Trauma Syndrome (RTS), Posttraumatic Stress Disorder (PTSD), and Acute Stress Disorder (ASD)
 - Rape Trauma Syndrome (RTS), the psychological trauma experienced by survivors of rape and other forms of sexual assault, was first documented by Burgess and Holmstrom in *Rape: Victims of Crisis* published in 1974. While this term is not used in current clinical work because it is not a formal diagnosis, it served the important historical role of identifying common reactions.
 - Acute stress disorder (ASD) and posttraumatic stress disorder (PTSD) are two diagnoses that may arise after a traumatic experience.
- It’s important to note that these conditions must be diagnosed by a mental health professional or health care provider – they are not “do it yourself” labels.
- Both of these disorders must be triggered by a traumatic event, and involve some of these experiences: dissociative symptoms of feeling numb, detached, or emotionally unresponsive; anxiety or increased arousal as shown by symptoms such as poor concentration, sleep problems, or being overly vigilant; intrusive symptoms, such as nightmares or flashbacks; avoidance of thoughts, feelings or external situations that remind the person of the trauma; negative thoughts and feelings.
 - Rape Crisis Center advocates may prefer the term “reaction” instead of “disorder.” Remember that a disorder must be diagnosed by a mental health professional. It is also important to avoid pathologizing normal reactions to trauma.
 - See Counseling Tools for the Prevention and Reduction of Posttraumatic Stress Reactions published by CALCASA and the *California Sexual Assault Response Team (SART) Manual* published by California Clinical Forensic Medical Training Center and posted on CALCASA’s website for further information.
 - RTS and PTSD are described in the literature as having a two- or three-stage process: 1) immediate acute, 2) subsequent acute, and 3) long-term. These reactions are briefly summarized and require further discussion. Remember that not all survivors will show these reactions.

<p>Immediate Acute Reactions</p>	<p>Shock and disbelief, tearfulness, sobbing, confusion, fears about personal safety, anxiety, hyperventilating, and fears about reactions of family and significant others.</p>	<p>Numb, detached, appears to be in a “daze”; unable to recall or only partially able to recall events and/or unable to recall events sequentially.</p>	<p>Outward calm and collectedness; suppressing feelings in order to remain in control in reaction to an out-of-control situation, or due to immediate profound anger.</p>
<p>Subsequent Acute Reactions</p>	<p>Fears, “jumpiness”, irritability, flashbacks, nightmares, panic/anxiety attacks, preoccupation with the assault and persistent re-experiencing of the trauma, distress upon exposure to reminders of the trauma, and self-blame.</p>	<p>Isolation and avoidance of situations that arouse recollections of the trauma (e.g. reluctance to participate in interviews with law enforcement and medical personnel); unexpected reactions to people resembling the perpetrator, similar cars, etc.</p>	<p>Insomnia, problems with concentration, exaggerated startle response, decreased appetite, loss of weight, headaches, stomachaches, anger, suicidal thoughts, substance abuse, depression, shame, guilt, irritability and low tolerance for issues surfacing in relationships.</p>
<p>Long-Term Reactions</p>	<p>Depression, anxiety, mood swings, feelings of shame, humiliation and guilt, anger, suicidal thoughts, decreased self-esteem, feelings of worthlessness, and inability to trust. Persistent avoidance of people or situations associated with the trauma, and hypervigilance.</p>	<p>Loss of weight, headaches, stomachaches, and continuing medical problems. Social isolation and lack of interest in participating in activities; feeling detached or estranged from others; a sense of a foreshortened future; loss of self-confidence.</p>	<p>Persistent re-experiencing of the trauma (recurrent, intrusive thoughts and distressing dreams, acting or feeling as if the sexual assault is happening again, and extreme distress when exposed to something that resembles or is symbolic of the traumatic event). Loss of interest in sexual activity; or, in some instances engaging in high-risk sexual behavior.</p>

4. Marginalized Communities/ Oppressed Groups

Considerations and Effects for Specific Populations

- Enhanced reactions for underserved populations may include:
 - increased depression and/or anxiety;
 - feelings of helplessness/hopelessness;
 - increased self-blame and shame;
 - fear of family, friends, and community reaction; and
 - avoidant reactions about reporting the crime out of a belief that they will not be taken seriously or be worthy of attention. Undocumented immigrants, for example, may fear deportation as a result of reporting the crime.
 - Individuals react differently to extremely stressful circumstances. These individualized responses are based on temperament, coping style, life experience, previous life traumas, presence or lack of a family/friend support system, history of mental illness, retardation, or personality disorder. Within this context, considerations and effects for specific populations are described next.
 - Additional behavior demonstrated by adolescents includes cutting school, outbursts of anger or rage, generalized self-destructive behavior, engaging in high-risk or compulsive sexual behavior, beginning or increased drug/alcohol use, cutting and self-mutilation, exaggerated adult behavior, high frequency of suicide attempts, and persistent anger.
 - Children are at risk for anxiety, depression, and Posttraumatic Stress Disorder.
 - The elderly are at risk for anxiety, depression, a sense of hopelessness, and Posttraumatic Stress Disorder. They are also at risk for declining health from injuries or from the psychological aftermath. Whereas they may have lived independently in their own home or apartment previously, they may no longer be able to do so.
- Living arrangements may also be in peril when the perpetrator serves as a caregiver.
- Survivors with mental, developmental and physical disabilities are at risk for anxiety, depression and Posttraumatic Stress Disorder. The emotional impact of a sexual assault may exacerbate existing life challenges for persons with disabilities. If they had previously been living in an independent living situation, they may no longer be able to do so. For further information, see *Creating Access: Serving Survivors of Sexual Assault with Disabilities* published by CALCASA.
 - Male survivors can typically present a “controlled” style of reaction after a sexual assault. If male survivors act out with anger toward those close to them, the targets of their anger may not understand why. Male survivors may be reluctant to disclose sexual assault for several reasons:
 - societal beliefs that a man should be able to defend himself against a sexual assault;
 - fear that their sexual orientation may be questioned or changed because of the assault;
 - men are taught to be in control of their feelings and fear that disclosure will release overwhelming emotions;
 - fear that no one will understand; and
 - fear that seeking or receiving assistance will make them appear weak or vulnerable.
 - LGBTQI+-identified survivors may be reluctant to disclose a sexual assault due to:
 - fear that law enforcement may not consider them worthy of concern;
 - fear that they will be subjected to ridicule and further humiliation;
 - fear that disclosure will release overwhelming emotions; and
 - concerns that Rape Crisis Center resources, with a historic emphasis on serving female survivors and possible political orientation, are not designed to meet their needs.

- Cultural/Ethnic Issues: Reactions to sexual assault may hold different historical and cultural meanings among various cultural and ethnic groups. Sometimes, cultural origins and belonging to a distinctive cultural group will exacerbate the feeling of shame. Cultural beliefs about sexual assault may create additional anxiety for the survivors they fear the reactions of family and friends, and their future place in the group or larger cultural community.
- Adult Survivors of Childhood Sexual Abuse (ASCSA): Research shows that ASCSAs are more vulnerable to subsequent victimization through rape/sexual assault and abusive relationships. They may demonstrate a highly stressful reactive style to the sexual assault; or, they may show a false indifference because of a past history of victimization. The false indifference covers significant feeling about this life event in the context of their entire life. It is a distinctive coping style that requires understanding and may affect professionals' perceptions of these survivors' credibility (which may be mitigated by advocates who can provide a general explanation of why a survivor may feel indifferent). ASCSAs may also demonstrate "protective denial," repressing some or all of the past abuse. This may cause significant memory gaps that can last months or even years. ASCSAs may also turn to substance abuse, self-injury and eating disorders as a means of coping. Some report pain or physical problems that cannot be detected by medical professionals. It is important to note that adult survivors may also be highly resilient and have developed impressive coping skills.
- Special efforts should be undertaken to extend Center services for individuals who experience the full impact of powerlessness and personal devastation and then experience a sexual assault in the context of already difficult and challenging lives.



Unit B – Discrimination and Oppression

TOTAL REQUIRED HOURS: At least 4 – 6 Hours

The purpose of this section is to provide a broad framework for understanding sexual violence as a manifestation of sexism, misogyny and patriarchy. Additionally, this unit will extend to other forms of oppression, such as racism and discrimination, and their relationship to violence against women. Finally, this unit will touch upon how working to end gender-based violence is also anti-oppression work. Doing so will help counselor/advocates better understand how to guide survivors on their path to healing when confronted with systemic and institutional barriers rooted in discrimination.

1. Intersections of Discrimination/ Oppression and Sexual Violence

Grassroots sexual assault and domestic violence programs emerged in the late 1960s/early 1970s as:

- a community response for healing and educational resource; and
- a force for social justice, or the practice of organizing and mobilizing with others to ensure that systems and institutions function for the betterment of whole communities.

Deeply connected to second wave feminism, sexual assault and domestic violence organizations consider rape and battering a manifestation of oppression, or the “sustained, unjust or cruel exercise of authority or power,” usually at cultural, economic, societal, and political levels. Specifically, sexism, or the notion that one sex is superior to another, functions as a system of oppression that is practiced by patriarchal (i.e. male-dominated; societal privileging or centering of men, etc.) cultures and societies.

One outcome of sexism is the social devaluing, distrust, or hatred of females, or misogyny, which, when embedded within cultural values, perpetuates inter/generational cycles of sexism and violence as a method of maintaining that inequality. In a patriarchal society, male dominance and female subjugation can be found woven throughout various facets of that society, becoming normalized systemically and institutionally as the “status quo” or “just the way things are.” Understanding this relationship between sexism, misogyny, and patriarchy as interdependent systems of oppression and sexual violence is what makes our work political and social justice-oriented.

One of the ways of understanding how sexism becomes normalized is by understanding the role of culture. Culture is both the expression of, and the vehicle for, practicing beliefs, values, and traditions of everyday life among a given common population. Oppression tends to stratify societies into the “haves” and “have nots,” or dominant cultures, (*supra*-culture that determines what will predominate in pluralistic society, and positions it as normative), and subordinate, or marginal, cultures which are usually acutely aware of social disparities and injustices. Dominant cultures hold positions of privilege, which assumes a set of unearned advantages, benefits, assumptions and expectations based on those social relations.

How does understanding sexism, patriarchy, misogyny, oppression, and social justice aid our work with individual survivors? The “everyday” survivors will not care about the political discourse of sexism. But sexual assault and domestic violence organizations should seek to alleviate, not exacerbate, these real-world challenges. An elevated political consciousness, specifically regarding the normalization of oppression entrenched within our various cultures and society, will assist counselor/advocates in working with survivors while simultaneously working for social justice. It will inform their responses to survivors when:

- Survivors blame themselves for the violence (“I shouldn’t have been out that late at night; shouldn’t have had that last drink; shouldn’t have flirted...”);
- An assault reinforces already held beliefs about different populations (“This happened because those [pick a racial/ethnic group] men are naturally more violent...”); and
- The families and friends of survivors blame the victims (“She has shamed our family and now she must be punished...”).

While an individual sexual assault is responded to as a local incident, for our work, anti-sexual and domestic violence work is a vital part of fighting systems and patterns of oppressive behaviors, practices, and policies that privilege males by making victims responsible for their victimization, and more broadly, limit full societal participation of women, and in some instances children. These systems of oppression include a wide variety of acts that function as gender-based forms of social control including: sexual harassment, job discrimination, educational bias, denial of decision-making power, barred from owning property, denial of access to reproductive health services/education, etc.

Globally, patterns of systemic and institutionalized sexism, misogyny, and patriarchy may include: female infanticide, honor killings, sex trafficking, acid assaults, breast ironing, “curing” HIV by having sex with virgins, clitorrectomy and vaginal suturing, or simply, denied access to education, work, or money. With a historical perspective of women viewed as

chattel property came the treatment of females as one of the spoils of war. As a method of European colonialism and expansion, U.S. manifest destiny, and U.S. sanctioned slavery, rape was used to display and enforce white supremacy, or the belief and practice that whiteness is superior to all other races, among indigenous and First Nation populations across the Americas and among Africans and the descendants of the Atlantic slave trade.

In the 20th century, rape was utilized as part of a larger war strategy: an estimated 20,000 women and girls were raped and/or murdered in the second Sino-Japanese, which became known as the Rape of Nanking; rapes of German and Russian women and children during WWII by the Allied Forces, as well as Nazi and Red Army occupying forces; and as part of ethnic cleansing in Rwanda, Bosnia-Herzegovina (sometimes publicly known as “community intimidation”), Kosovo, and Darfur. As much as women and children were targets for these atrocities, “conquered” men were secondary victims, as they were made to feel powerless to protect their families/communities.

Within systems, we can see how sexual violence:

- limits the presence and power of women in the military;
- diminishes workers’ rights among immigrant labor; and,
- fuels nearly invisible underground economies such as sex trafficking.

Sexism, misogyny, and patriarchy create the conditions for men’s violence against women, normalizing rape culture (a society or environment that trivializes violence against women by normalizing sexism, misogyny, and patriarchy), and sexual objectification (the reduction of one’s agency and self-possession to their sexual parts so that their purpose becomes that of sexual gratification). However, when working with survivors, counselor/advocates should remember that healing takes place within the survivor’s “whole being”—that is to say, they bring their life experience to the process. Life experience is shaped by race/ethnicity, sex, class, residency status, sexual orientation, physical ability, and other markers of identity. Systems of oppression are impacted by

structured inequality that creates hierarchies of power, and uneven distribution of, or access to resources. Survivors may then experience systemic and institutional barriers based on multiple identity markers such as:

- A black woman cannot receive victim's compensation benefits without filing a police report; doing so would put her partner at risk for a "third strike," which would negatively impact her ability to pay living expenses including rent.
- A rural white survivor without a car cannot receive the morning after pill as part of her post-trauma treatment because the local community has closed the free clinic that provided reproductive health services and the next closest facility is two counties over.
- A survivor with limited physical mobility cannot travel to a medical facility because no local buses are equipped with wheelchair access.
- An undocumented child immigrant cannot reveal to school personnel his abuse because it puts the family member—if not the whole family—at risk for deportation.
- A transgender survivor is denied access to shelter services because of inadequate accommodations (space, cultural awareness, etc.) and counseling services aimed at heteronormative relationships.
- A Muslim survivor refuses to disclose interpersonal violence because of fear that it will fuel Islamophobic media reports of Islam, especially due to the lack of Muslim journalists to sensitively cover the issue.

In each of the instances above, the first injury is the assault; subsequent to the violence are instances where systems and institutions that have been established to foster civil society actually re-injure, further marginalize, or impede a survivor's ability to progress toward healing. These illustrations of intersectionality, or the ways in which inherent barriers within systems and institutions overlap or intersect with one another, demonstrate ways that broader society impedes empowerment. Expanded from Kimberlé Crenshaw's analyses of the ways in

which the legal system further marginalizes black women seeking justice ("a woman was raped" means something different than "a woman of color was raped"), intersectionality is about identity-related biases embedded within systems and institutions, not about individuals. While Crenshaw's work crystallized at the intersections of sexism and racism (multiple-minorities do not necessarily experience violence and oppression categorically), it can be applied elsewhere as evidenced above. Thus, counselor/advocates should note how the barriers within those systems are triggered when confronted with the multi-faceted identity markers that composite an individual's identity. This means that counselor/advocates must be prepared for how multiple axes of identity and experience facilitate or impair a survivor's options as they move through the healing process.

While all are at risk for violence, all do not experience a justice-informed response to violence from support systems. In addition to discrimination and oppression, other social conditions can complicate counseling and treatment such as homelessness, substance abuse, mental disorders, HIV status, or a history of sexual/physical abuse. Is it possible then, for counselor/advocates to know *all* the cultural characteristics that inform the lives of diverse survivors, as well as the myriad ways diverse populations experience multiple forms of societal oppression simultaneously (i.e. the trans-undocumented-monolingual-immigrant-woman-of-color-over-fifty-with-a-disability, etc.) on a daily basis? No, it is not. Counselor/advocates will make mistakes related to "difference." Assumptions will be made, and stereotypes/biases—which everyone has—will work their way into the counseling experience.

2. Awareness and Understanding of Groups That Have Experienced Discrimination

Some of the various identity groups discussed have experienced marginalization, disenfranchisement, and/or abuse. As a result, counselors/advocates must be sensitive to ways in which these factors shape our worldviews. This will impact survivors in various ways:

- It may cause them to distrust authorities, government, and/or institutions; this makes a multidisciplinary approach (engaging police, hospitals, courts, etc.) challenging. For example, due to bias, abuse or corruption among law enforcement or governments, black citizens in the US or émigrés fleeing unstable countries may refuse to contact police after an assault.
- Disengagement with institutions and systems will reduce options and resources for survivors. For example, refusing to obtain a driver's license because of privacy concerns will make accessing other services difficult because of the lack of identification documentation.
- It may limit access and ability to utilize existing services, sending the message that those services are for those that fit the norm or dominant culture. For example, refusal to produce materials in multiple languages or ensure easy access to public facilities becomes a barrier for non-English speakers or persons with disabilities.

As counselor/advocates, it will be important to allow survivors to self-identify. Further, when survivors represent multiple identities that have been historically disenfranchised or marginalized, they are vulnerable to interlocking systems of oppression.

- For example, an undocumented immigrant Asian woman, who is a survivor, must negotiate immigration issues, racism, and sexism as she embarks on her road to recovery.
- Similarly, a gay Muslim man who has recently recovered memories of child sexual abuse may be searching his entire past to figure out whether his faith, orientation, or gender marked him as a target for child sexual predators.

It is not possible to understand the myriad of ways in which people have experienced discrimination as part of a targeted population, nor is it possible to get all of the subtlety and nuances associated with different cultures, especially ones that differ from our own.

To ensure that our community-based sexual assault agencies are as inclusive as possible to diverse populations, we encourage survivors to direct their own healing process (empowerment) and resist imposing our own worldview on their process.

As counselor/advocates, we must first understand our own social positioning, cultural programming, and prejudices in order to ensure they do not impact our interaction with survivors who will also identify with both dominant and subordinate cultures. They may express many of these same prejudices, but counselor/advocates cannot reinforce those attitudes and beliefs among survivors, their families, or other advocates. As counselor/advocates working to end sexual violence as a social justice issue, all these issues are interconnected and to work toward the end of one, means working toward anti-oppression for all.

3. Cultural Considerations in Providing Services to Different Marginalized Groups

“Critical consciousness is the process continuously reflecting upon and examining how our own biases, assumptions and cultural worldviews affect the ways we perceive difference and power dynamics.” (Pinter & Sakamoto, 2005).

As we strive to ensure that our services are available to all, we work to end bias and discrimination as a barrier to healing. This means that we must reduce the likelihood of imposing our own values upon survivors, and challenge prejudicial or stereotypical beliefs. As a result, this work begins with a closer look at ourselves. “I know that I know nothing,” attributed to Socrates, is an acknowledgement of one’s own ignorance, which leads to the first step to knowledge via inquiry and wonderment.

Counselor/advocates will want to develop knowledge and skills in two areas: building their cultural competency skills and operating within an anti-oppression framework.

- Cultural competency: Equity, diversity, and inclusivity happen with intentional and thoughtful action. A commitment to cultural competency is both an embrace of pluralism and an act of social justice, as it functions on some level as a corrective to historically marginalized populations. For our purposes, cultural competency can be understood as “the ability to understand, appreciate, and interact with persons from cultures and/or belief systems other than one’s own.” To be clear, cultural competency is about building a set of skills that allow counselor/advocates to effectively engage interculturally. There is no one way to accomplish this, and there is no end to it: culture is broad, overlapping, intersecting, incalculable, and ever-changing; becoming culturally competent is a life-learning process of work performed primarily on oneself, then upon one’s surrounding community; and the skills development can be viewed on a continuum from cultural destructiveness to cultural proficiency.
- The National Center for Cultural Competence at Georgetown University (NCCC) identifies three primary strategies for working towards cultural competency:
 - Increasing awareness—self-assessments that reveal exposure to, differences/similarities, or implicit bias are helpful in this phase;
 - Increasing understanding and knowledge—education on social protocols, values, traditions, and histories that impact day-to-day quality of life; and
 - Developing skill sets—building the capacity to operate in ways that demonstrate the importance of culture as a protective factor from interpersonal violence.
- This type of work is transformative and has the ability to heal wounds, whether from an assault or historical injustice. As previously stated, there is no way to know all the different ways in which ignorance, bias, prejudice, or discrimination will present itself in this work. counselor/advocates need to know that each misstep will be an opportunity to improve and grow—doing so will demonstrate their level of commitment to anti-oppression work.
- Anti-oppression framework: Whether discussed as intersectional, interlocking, overlapping, or mutually-influenced, an anti-oppression framework seeks to comprehensively eliminate barriers that reinforce marginalization, exclusion, and disenfranchisement. Simultaneously, we actively challenge imbalances and abuses of power, while working to rebuild systems with equity at their centers so that everyone has access and opportunity. However, the first step in doing so is see where we fit into the picture: “[a]nti-oppressive practice now requires all practitioners to understand themselves as implicated in sustaining relations of domination, as benefitting from the status quo...” In other words, rape crisis and domestic violence organizations and all of our constitutive elements are not immune to the influence and power of oppression as we do not operate outside of society and culture. In one sense, our social

justice goals begin with our own liberation from the ways in which we, as anti-sexual/domestic violence movement leaders, participate in and benefit from interlocking systems of oppression.

- By focusing on the anti-oppression framework, we reduce incidents of re-traumatizing survivors, while contributing to larger sexual violence prevention organizing. As individuals within this framework, we learn how to work in solidarity with those whose experiences may be vastly different from our own, and how to use our own power and privilege as an ally across our differences in the struggle for equity, inclusivity, and justice—our collective liberation is at stake.

NOTE: *It is not ok to tell survivors that they are oppressed, nor is it ok to suggest or confirm for a survivor that they were victimized because of their identity. Perpetrators are always responsible for their acts of sexual violence and physical abuse. But because society treats certain identified populations marginally, perpetrators believe that those lives are less than and perhaps no one will believe the survivor. Identity is not the cause of a survivor's victimization; perpetrators devalue certain identities and target them for maltreatment.*

4. Culturally Appropriate Community Referrals

- Survivors may need support beyond the scope of what the RCC can provide. In this case, a community referral is appropriate (e.g. a therapist for on-going psychological care). These referrals must account for the cultural context of the survivor. Collaboration with the survivor is crucial in providing an effective referral.”
- Centers should actively engage in research and outreach in your community to maintain up-to-date information and referrals for groups who have been discriminated against.
- See Unit F on Referrals for more information.

5. Role Plays

Draw from the Center's experiences with referrals to conduct scenarios for participants to practice applicable methods when working with survivors. Role play situations based on the information above, focusing on cultural considerations needed for different marginalized groups. Lead a discussion with the group after each role play. Go over what worked and what could be improved upon.

These topics require in-depth discussion of past and recent events, awareness, and outreach. The history of discrimination and oppression varies from community to community as well as the open, often violent expression of hatred toward the LGBTQI+ community and various ethnic/cultural groups.

***Nearly 8,000 Boy Scout Leaders
Have Been Accused of Sexual Abuse
Since 1944, Researcher Found***

- The New York Times, April 23, 2019

***Years of priest abuse allegations have
caught up with Los Angeles Archdiocese***

- Los Angeles Times, May 3, 2019

***Abuse Scandal Inquiry Damns
Paterno and Penn State***

- The New York Times, July 13, 2013

Unit C – Child Sexual Abuse

TOTAL REQUIRED HOURS: At least 3 hours

The purpose of this section is to provide a broad framework for understanding child sexual abuse (CSA). Specifically, this section provides counselor/advocates with an overview of mental, physical, and emotional effects of child sexual abuse on both children and those who care for them. Further, training content will cover responsibilities regarding disclosures of CSA and age-appropriate methods of working with minor survivors.

1. Child Sexual Abuse Definitions, Types, and Characteristics

- Acknowledge that child sexual abuse (CSA) may be a difficult subject. Some of the counselors/advocates may be survivors of child sexual abuse, and the thought of harm to children is difficult for anyone to contemplate.
- Awareness and identification are the first steps toward intervention and prevention of CSA.
- CSA may consist of a single incident or many acts over a long period of time (chronic sexual abuse) with a progression of contact. Frequently CSA involves an entire spectrum of violations, and may be committed along with physical abuse, emotional abuse, and neglect. Victims range in age from less than one year through adolescence. For our purposes, this training content will focus on children from infancy to age twelve. Teen abuse is discussed in the next unit.
- Share the following statistics along with any data from the local community on CSA:

Statistics

- The statistics provided by the U.S. Department of Health & Human Services in *Child Maltreatment 2017* (<https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>) provide a snapshot of child sexual abuse prevalence, but include only cases that are reported to child protective services:
 - 8.6% of reported cases of maltreatment of children were classified as sexual abuse.
 - 58,114 cases of child sexual abuse were reported in 2017.
- Research conducted by the Centers for Disease Control (CDC) estimates that 1 in 6 boys and 1 in 4 girls are sexually abused before the age of 18 (<https://www.cdc.gov/violenceprevention/childabuseandneglect/acestudy/about.html>).
- *Preventing Child Maltreatment*¹, a journal from The Future of Children, provides some insight into perpetrators, offenders, and those that cause sexual harm to children:
 - “Offenders are overwhelmingly male, ranging in age from adolescents to elderly” (p. 171). In approximately 14% of offenses against boys and 6% of cases against girls, the perpetrators are female.
 - Only approximately 14% of perpetrators are unknown to their child sexual assault victims. The overwhelming majority of offenders are family members or part of the family social network.
 - Child molesters are more likely to be educated and employed than other criminals.

Certain populations may be at additional risk for sexual abuse such as children with disabilities because of invisibility and/or marginalization.²

¹ http://www.futureofchildren.org/sites/futureofchildren/files/media/preventing_child_maltreatment_19_02_fulljournal.pdf

² “Sexual Abuse of Children with Disabilities,” Protecting Children from Sexual Violence: A Comprehensive Approach, Council of Europe, <https://www.coe.int/t/dg3/children/tin5/Source/PublicationSexualViolence/Brown.pdf>

Types and definitions³

Even though the information below is broad and general, it will provide counselor/advocates with a good base of knowledge for further discussion. Feel free to turn the following into handouts for distribution among counselor/advocates.

In General

Sexually Abusive Conduct	Kissing, fondling genitals, masturbation, genital exposure, oral genital contact or penetration, genital or vaginal contact or penetration, anal contact or penetration, dry intercourse between the legs or buttocks, child pornography, and child prostitution.
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Perpetrators	Most child sexual assault victims know their perpetrators, and most perpetrators are male. Pedophiles are persons who are solely attracted to children for purposes of sexual gratification. However, most CSA perpetrators are not pedophiles by definition. Perpetrator strategies include coercion, psychological pressure, exertion of adult authority, misrepresentation of normal behavior, gifts or rewards, or force and threats. The term “grooming behavior” refers to the giving of gifts, toys, attention, and progressive physical closeness to break down the resistance of the child victim.
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Child Sexual Victimization

Intra-family Child Sexual Abuse or Incest	The most common perpetrators of child sexual abuse are male family members (e.g. fathers, stepfathers, grandfathers, uncles, cousins, and siblings). Some adolescents and children behave in sexually inappropriate ways with other children, usually as a result of past or current abuse or other trauma. Female family members are less likely to be perpetrators.
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Sexual Abuse by Non-Family Members	Children may be sexually abused in childcare facilities, family day care, school, after-school activity groups, and in religious settings, as well as by trusted family friends. Endowed trust and/or authority is used to groom, abuse, and exploit children.
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Forcible Child Sexual Assault	Typically, the victim does not know the perpetrator. Enticement (“come and see the ducks” or “help me find my lost dog”), or abduction is used to separate and isolate the child from family and friends. Teens may be forcibly raped by acquaintances as well as strangers.
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Child Sexual Exploitation	This term used in cases of pornography, prostitution, sex-rings, or circumstances involving organized abuse, involving multiple victims and multiple offenders such as trafficking. The perpetrators may include an association of both family and non-family members. Financial gain is the principal motivation for pornography, prostitution, and sex-rings.
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Other Types of Child Abuse	Sexually abused children may also concurrently experience physical abuse; emotional abuse; physical, medical, and/or educational neglect; and/or be exposed to chaotic family life resulting from homes with substance abuse, domestic violence, or the manufacture of illicit drugs.
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³ Cal OES Training Standards 2017

Indicators of Child Sexual Abuse*

Physical signs and symptoms	Presence of semen; sexually transmitted disease; pregnancy; genital discharge or infection; anal or genital pain, itching, swelling, bruising, bleeding, lacerations, or abrasions, especially if unexplained or inconsistent; pain on urination/defecation; difficulty in walking or sitting due to genital or anal pain; stomachaches, headaches, and other psychosomatic symptoms. Note that most sexually abused children do not show physical injuries.
Sexual behaviors	Detailed and age-inappropriate understanding of sexual behavior (especially by younger children); inappropriate, unusual, or aggressive sexual behavior with peers or toys; compulsive masturbation; excessive curiosity about sexual matters or genitalia (self and others); inappropriate seductive behavior with classmates, teachers, and other adults; prostitution or high-risk sexual behavior.
Indicator Behaviors in younger children that may indicate sexual abuse	Bed-wetting; fecal soiling; eating disturbances (overeating, undereating); fears, phobias, overly compulsive behavior; school problems or significant change in school performance (attitudes and grades); age-inappropriate behavior (acting overly mature or showing regressive behavior such as thumb sucking); inability to concentrate; and/or sleep disturbances, e.g., nightmares, fear of falling asleep, fretful sleep pattern, and sleeping long hours.
Indicator Behaviors in older children and adolescents that may indicate sexual abuse	Withdrawal; clinical depression; overly compliant behavior; poor hygiene; poor peer relations and social skills, inability to make friends; acting out, runaway, aggressive, or delinquent behavior; alcohol or drug abuse; school problems, frequent absences, sudden drop in school performance; fear of home life demonstrated by arriving at school early or leaving late; refusal to dress for physical education; non-participation in sports and social activities; fear of showers/rest rooms; suddenly fearful of other things (going outside, participating in familiar activities); extraordinary fear of males; self-consciousness of body beyond that expected for age; sudden acquisition of money, new clothes, or gifts with no reasonable explanation; suicide attempt and/or self-destructive behavior; crying without provocation; fire setting; and/or sleeping during the day or unusual sleep patterns.

*It is important to note that none of these indicators are proof that a child or adolescent has been sexually abused. They may be caused by other forms of trauma, medical problems, or developmental issues.

California State Law PC 288a (see also California P.C. 11165.1):

- “...any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child,

is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.”⁴

Now that we understand its definition, who it can happen to, what it looks like, and ways in which children may show warning signs of CSA, counselor/advocates will need to recognize those warning signs as possible indicators of some type of maltreatment, which may include sexual abuse. Now let’s take a look at some of the factors that increase risk of sexual abuse among children.

⁴ “Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals,” http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=288.&lawCode=PEN

2. Effects/Adverse Childhood Experiences Study

Adverse childhood experiences (ACEs) are stressful or traumatic events, including abuse and neglect. They may also include household dysfunction such as witnessing domestic violence or growing up with family members who have substance use disorders. ACEs are strongly related to the development and prevalence of a wide range of health problems throughout a person's lifespan, including those associated with substance misuse.

ACEs include:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Physical neglect
- Emotional neglect
- Intimate partner violence (original item was "Mother treated violently")
- Substance misuse within household
- Household mental illness
- Parental separation or divorce
- Incarcerated household member

The Division of Violence Prevention at the Centers for Disease Control and Prevention (CDC), in partnership with Kaiser Permanente, conducted a landmark ACE study from 1995 to 1997 with more than 17,000 participants. The study found:

- ACEs are common. For example, 28% of study participants reported physical abuse and 21% reported sexual abuse. Many also reported experiencing a divorce or parental separation or having a parent with a mental and/or substance use disorder.
- ACEs cluster. Almost 40% of the Kaiser sample reported two or more ACEs and 12.5% experienced four or more. Because ACEs cluster, many subsequent studies now look at the cumulative effects of ACEs rather than the individual effects of each.
- ACEs have a dose-response relationship with many health problems. As researchers followed participants over time, they discovered that a person's cumulative ACEs score has a strong, graded relationship to numerous health, social, and behavioral problems throughout their lifespan, including substance use disorders. Furthermore, many problems related to ACEs tend to occur together.⁵

Key Points:

- CSA is both a common type of victimization and a risk factor for negative health outcomes.
- Prevalence of CSA is high among children of all social strata including those targeted due to perceived vulnerabilities such as homelessness or living with a disability.
- Adult sexual assault survivors may bring trauma from CSA into current crisis intervention counseling, with or without additional sexual trauma as an adult.

⁵ <https://www.samhsa.gov/capt/practicing-effective-prevention/prevention-behavioral-health/adverse-childhood-experiences>

Impact of Child Sexual Abuse

Emotional	Sexually abused children may experience fear, anxiety, depression, guilt, shame after the abuse is disclosed, posttraumatic stress disorder, low self-esteem, inability to trust, blurred boundaries and sexual behavior confusion.
Family Crises	Several periods of crisis may follow initial disclosure, especially if the abuser is a family member (for example, family reactions, removal from home, medical examination, discovery that a sibling is also a victim, parental rejection, court appearances, visitation with the alleged perpetrator if criminal prosecution does not occur, beginning or change in the level of visitation with the alleged perpetrator, and change from supervised to unsupervised visits with the alleged perpetrator).
Gendered reactions	Typically it has been thought that boys had more behavior problems while girls turned their troubles inward. Current research shows it is not this simple, especially since there are considerable differences in experiences and disclosure between boys and girls (Australian Institute of Family Studies, 2013). Adult after-effects are similar for both men and women (Dube et al, 2005).
Reactive behavior	Subsequent reactive behavior may include running away, truancy, prostitution, substance abuse, suicidal thoughts, school problems, and involvement in the juvenile justice and criminal justice system.
Coping	Children who have been abused can develop coping mechanisms that help at the time, but may cause problems later, such as detaching from their emotions, telling lies, clinging to adults, self-harm, or obsessive behaviors.
Trust	<u>Trust</u> becomes very important for CSA survivors. Therefore, child survivors will most frequently disclose to a friend or peer, and sometimes that is the only person they will tell. About a third of children who have been abused disclose to a parent, usually the mother. Teachers make the majority of professional reports of child abuse (Townsend, 2016).
Disclosure	Delay in disclosure by children is common. Partial and unfolding disclosures are also common. Rarely will a child sit down and relate the whole story. "Children who are abused by a family member are less likely to disclose and more likely to delay disclosure than those abused by someone outside of the family" (Townsend, 2016).

Emphasize with counselor/advocates that understanding adverse childhood experiences can enhance their ability to support survivors in crisis. Learning the impact of ACEs may reduce the blame survivors direct toward themselves for their early childhood victimization, and can also help them better understand how their current life challenges may be connected to early childhood trauma.

3. Mandated Reporting Procedures and Agency Policy

Mandated reporting is an important issue to cover with counselor/advocates. Discuss your Center's policy and procedures on mandated reporting. In California, advocates are not explicitly listed as mandatory reporters of child abuse and neglect nor named mandatory reporters of vulnerable adult abuse. In general advocates are not mandated to report child and vulnerable adult abuse unless they are specifically serving these populations or have reporting requirements due to their profession/licenses (e.g., LCSW, psychologist, clinical therapist). Furthermore, reporting child abuse or vulnerable adult abuse when not required could be a violation of VAWA confidentiality provisions.

These are important points to know:

- Any counselor/advocate serving solely in a volunteer capacity at a Rape Crisis Center is not a mandated reporter, regardless of whether or not they are mandated reporters in their employment outside of the Rape Crisis Center.
 - A counselor/advocate who is not in a profession that mandates reporting of child abuse and whose advocacy caseload and services do not include minors is not a mandated reporter.
 - If a counselor/advocate's duties require "direct contact and supervision of children," they are mandated reporters.
 - There may be other circumstances in which reporting is mandated. For example, counselor/advocates are required to report child abuse when, as a result of a school child abuse prevention program, a child reports to them that they are a victim of child abuse (California Penal Code Section 11166.7 (a)).
 - The most important points for an counselor/advocate to know are: (1) you should become thoroughly acquainted with your own agency's policies and procedures on mandated reporting; (2) you should talk to your supervisor about mandated reporting and clarify any questions you may have prior to working with survivors; (3) you should consult with your supervisor about any situation in which you think you may need to make a report of suspected abuse to the authorities; and (4) you should discuss your duties to report to clients/survivors on the onset of your contact with them and should remind them of the mandatory reporting requirements you have as time goes on.
- There are separate requirements for mandated reporting of abuse and neglect committed against elder adults (65 years and older) and dependent adults (those between the ages of 18 and 64 with physical or mental limitations that restrict their ability to carry out normal activities or protect their rights). Consult your agency's policies.
 - If your agency determines that you are a mandated reporter, it is important that you receive appropriate training and stay up to date on reporting requirements.
 - CALCASA is in no way providing legal advice to counselor/advocates or Rape Crisis Centers. The information in this guide is for educational purposes only.

Review key elements of mandated reporting. Assure counselor/advocates that the RCC has all the appropriate paperwork on hand and will assist them in handling these situations in the event something presents itself.

- Mandated reporters include the following professionals: physicians, psychiatrists, psychologists, dentists, medical residents and interns, podiatrist, chiropractors, licensed nurses, physician assistants, dental hygienists, optometrists, social workers, marriage/family therapists, teachers, school custodians, photo processing businesses. (California Penal Code Section 11165.7 et seq.)
- The obligation of mandated reporters to make a report to a child protective agency arises when they, in their professional capacity, have knowledge of or observe a child who they know, or reasonably suspect, has been the victim of child abuse and neglect. According to an informal analysis by the CA state Attorney General, licensed professionals (e.g. social worker, psychologist) working as a volunteer on a rape crisis or

other hotline are still considered to be subject to the terms of the child abuse reporting law. Coordination should occur with RCC coordinator of counselor/advocates.

- Child abuse reporting laws also pertain to adolescents. For teenagers, sexually transmitted disease or pregnancy can be considered possible indicators of child abuse, but are not, in and of themselves, basis for a reasonable suspicion of sexual assault (P.C. 11167).
- Confidentiality/Child Abuse Reports: Written reports required by the child abuse reporting law are confidential and can only be released to child protective agencies; multidisciplinary personnel teams (defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code); persons or agencies responsible for the licensing of facilities that care for children; hospital SCAN (Suspected Child Abuse and Neglect) teams; and coroners and medical examiners.

4. Developmental Considerations

- An important factor to remember when working with children and adolescents is that they are still growing and developing. Research has demonstrated that brain development continues into young adulthood. Although trauma does impact the brain, young people are resilient and counselor/advocates can be part of a broader strategy to enhance healing and recovery.
- The “40 Developmental Assets” is a framework for reducing risk factors for negative health outcomes (e.g., substance abuse, violence, dropping out of high school, pregnancy, etc.); and for building resilience among children, teens, and young adults. Distribute and review copies of the “40 Developmental Assets.” <https://www.search-institute.org/downloadable/Ann-Arbor-Handout-2.pdf>
- Counselor/advocates should become adept and skilled at drawing from identified best practices for using developmental strategies to promote healing after sexual assault. In order for them to become comfortable with using the evidence-based best practice with children and teens, they should become familiar with the language and concepts.
- It is important for counselor/advocates to know about normal childhood sexual development to provide context for what happens when a child is sexually abused.



Unit D – Teen Sexual Abuse

TOTAL REQUIRED HOURS: At least 3

The purpose of this section is to provide an overview of the mental, physical, and emotional impact of teen dating and sexual violence, as well as guidance in the development of age appropriate methods for working with survivors who are minors. By examining the nuances of sexual assault and dating violence during adolescent development, counselor/advocates can better adapt their support methods to match the special needs of adolescent survivors.

1. Developmental Considerations

Understanding the emotional, physical and intellectual developmental differences between adults and teens is crucial in developing appropriate support for survivors who are adolescents. It is important to be aware of the perception society holds of teenagers and adults and the relationships they share. Power imbalance is a core factor to sexual violence, especially in teen sexual violence. Adolescence is a time when young people learn how to build relationships with other people and these tactics will carry into adulthood, so having a role in the development of teenagers' behavior in building relationships can provide critical opportunities for prevention and awareness. Sexual assault can happen to any and all teens, regardless of their gender identity or sexual orientation. Counselor/advocates must make an effort to understand the nuances of a teenager's developing sexuality and mind if they are to adequately provide tools for healing.

A big part of becoming a teenager is making decisions about what, if any, sexual activity feels comfortable and right. As teens are developing their personal choices on what feels right to them, they are also facing a wide array of other developmental considerations. It is important for counselor/advocates to understand the specific surrounding circumstances of each teen survivor's development to better prepare for the range of needs each teen may have. Because teens are learning what healthy sexual expression is as they become more independent and the risk of sexual assault becomes more prevalent, awareness becomes paramount in ensuring teenagers know what standards of respect they should expect for themselves and when those

boundaries are violated.

In addition to the conventional risk exposures associated with sexual assault, teenagers are now exposed to the dangers of internet and social media as another means of perpetrating assault and even abduction. Counselor/advocates should be able to encounter these newly developing forms of assault and do so with awareness of the developmental sensitivities surrounding teenagers.

Early adolescence is a period of change—physically, emotionally, and socially. In this stage of development, youth are leaving their childhood behind and beginning to define their identities as young adults. While this stage can be challenging for parents and caregivers, remember that this is a time when youth are rapidly gaining new life skills and beginning to develop their value systems. Puberty and physical changes occur during this stage, and this is also a time of emotional and relationship development. Keep in mind that these changes in the body may not happen at the same time or rate as emotional growth.

As youth enter the stage of middle adolescent development, they may spend more time with peer groups, learning the world beyond places where they would be accompanied by supervising adults (e.g., parents, kinship care, etc.) and withhold behaviors that would be deemed inappropriate or unacceptable. Further, teens in this stage are learning to manage their emotions as their brains are still developing and being informed by their real world experiences.

Late adolescence is a time of marked transition from childhood into adulthood where teens and young adults revisit values and beliefs established in childhood. Youth are able to make better decisions, gain more confidence about the world, and have a better sense of who they are, and identify the goals they wish to pursue. This can still be a dangerous time as youth may pursue a higher education or enter the workforce where responsibilities become greater and there may be less reliance on supervisory adults. Trauma resulting from sexual and dating violence continues to impact brain activity as the brain continues to develop into young adulthood.

Developmental Challenges to Consider in Working With Teen Survivors

Egocentrism	Can be defined as self-absorption, with little ability to understand the perspective of anyone but one's self. This may not have been previously demonstrated in a child's character and development and may be transitory.
Lowered Self-Esteem	Also referred to as lowered self-assurance. Can begin in junior high school when issues move to the forefront in otherwise healthy, confident, and active middle school students.
Belief in Invincibility	Teenagers are less inclined than adults to over-exaggerate risk, often times resulting in risk-taking behavior.
Transition to Autonomy	Adolescent behavior during this period may cause conflict within the family as the teenager becomes noncommunicative, emotionally distant, does not observe curfew, and spends more time with friends than family.
Ability to Perceive Coercion	Ability to perceive coercion and manipulation is flawed due to overriding need to fit into the group. Easily influenced, coerced and manipulated into high-risk behavior due to group influence. Teenagers believe they are making independent choices when they engage in this behavior.
Coercion	Feeling pressured to do something sexual and the teen does not know how to get away from the situation or is afraid to say "no" for fear of breaking up the relationship, is a sign that they are being coerced or emotionally forced to do something they do not want to do.
Adolescent Brain Development	Because the brain is still developing, teens are managing coping, decision-making, emotions, their sense of sexual and gender identity and sexual curiosity – they're figuring out who they are. This process is normal but interrupting it with trauma can impact cortical or electric networks in the brain.

While we have a clear generalized understanding of adolescent characteristics, we cannot expect all teens to react the same way. It is important to remember that inherent within adolescent development and teen culture are risks that create vulnerability for teens.

2. Teen Culture and Risk Factors

An important goal of research on teen dating violence is to understand which youth are more vulnerable to experiencing violence in their relationships. Identifying youth at risk for violence increases the likelihood of early intervention and prevention. Researchers seek to identify the risk factors indicating an increased likelihood for dating violence and the protective factors that buffer against dating violence. Risk factors and protective factors can be found across multiple contexts, including factors specific to an individual, peer group or social group, relationship, or community/environment.

Teen Dating Violence: Dating violence is violence/abuse committed by a person to exert power and control over a current or former dating partner. Similar to DV, dating violence captures the experience of those less experienced with intimate relationships such as teens and young adults.

Several risk factors (such as absence of healthy relationship modeling, histories of abuse, and community violence), a teen's developmental characteristics, and lack of dating experience, may lead teens to interpret abusive behavior as a sign of commitment or love (for example, cyber stalking or excessive and accusatory text messaging). For most teens, experiencing abuse during their first romantic relationship places them at greater risk for a trajectory of future abuse in later romantic relationships.

Key points

- Peer groups become a driving force in influencing how teenagers make decisions.
- Friends tend to become more important than family, creating a rift in the educational power of the adults in the teenager's life and sexual mentality development.
- The internet, social media, and general media may have a negative impact on the way teenagers view and create sexual relationships with others. These, along with several other varying factors in a teenager's life and upbringing can have a severe impact on her/his vulnerability.
- Sexual abuse and assault among teenagers commonly occurs within the context of a dating relationship.
- Because most teenagers are only starting to learn how to express themselves sexually and entering their first romantic relationships, it is easy for their perceptions of mutual respect and safety to be adversely affected by a wide array of risk factors.

Warning Signs and Risk Factors

Grooming Approach to Victimization

Grooming involves breaking down any resistance through the development of a relationship, facilitating and normalizing an accommodation of various types of behavior, and creating a dependency between the victim and the perpetrator. The approach is to provide the victim with something they need or want (e.g. relationship, money, material goods). Teenagers are vulnerable to this behavior because it makes them feel valued or like an adult; they may gain enhanced status in the group due to money and material goods, and “breaking the rules” creates a feeling of exhilaration and daring.

Code of Silence

The code of silence is very strong among teenagers and involves being silent about what they know in order to protect each other from adult intervention. Teenagers who break the code of silence can be shunned by their peers for long periods of time or can be completely rejected by the group. A teenager can lose an entire social group of friends if they reveal alcohol and/or drug use or other types of behavior not approved by parents and society.

Lack of Relationship Experience

Because teens are learning how to navigate relationships, their emotions, and how to resolve relationship conflicts, they may interpret emotional abuse, jealousy, obsession, stalking, and other controlling behaviors as signs of love. It is imperative that teens are able to identify feelings of insecurity and vulnerability so as to make healthier choices and decisions in their relationships that do not involve abuses of power and control.

Risk-Taking Behavior

Teen years are a time of natural risk taking for teens. Individuation, or the process of coming into one’s own sense of self and personality (separate and distinct from the family of origin). By taking risks, youth may decide to try on different behaviors, spend time with varieties of friends, and explore beliefs not necessarily practiced at home. Experimentation and exploration are normal, but can sometimes lead to unhealthy risk taking, such as consuming drugs and alcohol. Status offenses (i.e., truancy, curfew violations, underage drinking, etc.) can lead to societal reprimands that push teen rebelliousness into areas of delinquency and criminality. Experiencing sexual assault during this period can have long-lasting impact, and can lead to high-risk behaviors.

Consider

Another factor that impacts how sexual violence can be perpetrated is linked to teen cultural norms. An example of this is to consider that today’s youth are the first generation to grow up never knowing a world without technology. A Pew Research study reports that today nearly 95% of teens have access to a smartphone, and 45% of them say they are online ‘almost constantly.’ With this readily available access to tech comes the increased likelihood that teens will experience or witness tech facilitated abuse. (<https://www.pewinternet.org/2018/05/31/teens-social-media-technology-2018/>)

Technology and Social Media

Teen culture factors that affect how sexual violence is perpetrated should also be analyzed. In addition to the typical power struggles that present themselves in sexual violence generally, teenagers are facing a new realm of sexual assault as their use of internet and social media platforms continues to rise. Technology-facilitated abuse can be insidious and pervasive as it has permeated all facets of daily life. Stalking, nonconsensual sharing of intimate images, doxing (i.e., publishing of private information), trolling, and other tactics, become nearly impossible to avoid with the pervasiveness of cell phones, tablets, and laptops, along with the increasing centrality of social media in daily life. Asking teens (who are digital natives) to stay away from social media or their digital devices is an unrealistic response to tech-facilitated abuse. Their access to sexual content via the internet is limitless and it should be considered an element of teen sexual education, for better or worse.

Technology-Facilitated Abuse

A National Institute of Justice study found the following factors related to multiple forms of abuse:

- **Gender:** Female teens reported more cyber, psychological and sexual violence, while male teens reported more physical dating violence; lesbian, gay, bisexual, transgender, and questioning youth reported significantly higher rates of cyber dating abuse and perpetration than heterosexual youth.
- **Sexual activity:** Teens who had been involved in sexual activity were more likely to experience cyber, physical, psychological and sexual dating abuse.
- **Delinquency:** The more delinquent activities that teens engaged in, the more likely they were to experience cyber, physical, psychological and sexual dating abuse. In relationships involving high levels of delinquent behaviors by both partners, higher levels of violence were exhibited.⁶

Further, nearly 1 in 10 teens in dating relationships reported having some form of cyber assault (e.g. degrading messages, embarrassment before a public audience on social media, pressure for sex and explicit photos) happen to them. This type of dating abuse is often accompanied by other forms of abuse from the perpetrating dating partner.

Online sexual predators serve as another source of cyber assault—pretending to be someone they are not to trick teens into meeting them in person, this is also referred to as “catfishing.” These types of predators take advantage of the newly developing teenage minds and lure them in with emotional manipulation.

Oftentimes, teenagers feel they have no viable options for safety simply because they are not knowledgeable of their legal rights and protections. For teens who are learning about themselves and dealing with how to express themselves emotionally and sexually, it is crucial to have a solid foundation of knowledge about what their rights are in order to make and enforce healthy decisions about their sexual relationships and encounters. In a form of abuse that revolves around the dynamic and struggle of power between two people, knowledge is a very powerful tool.

⁶ Dank, M., Lachman, P., Zweig, J.M., Yahner, J. (2014). Dating violence experiences of lesbian, gay, bisexual, and transgender youth. *Journal of Youth and Adolescence*, 43(5), 846-857. DOI 10.1007/s10964-013-9975-8.

3. Legal Issues

The following is a list of various penal and family codes impacting counselor/advocates ability to advocate on behalf of teen survivors. Please be sure to emphasize that counselor/advocates should consult with RCC staff for dealing with teens and legal issues.

Related California Statutes

CA Penal Code § 261.5	Unlawful sexual intercourse (statutory rape) means sexual intercourse with a person under the age of 18 years. Policies regarding investigation and prosecution for unlawful intercourse between older teenagers (sometimes referred to as “teens in love”) vary. However, if there is a significant age difference between the male and female, the matter is viewed differently, and prosecution may result. Consult the local County District Attorney’s Office.
CA Penal Code § 261.5.	Consensual student/teacher relationships with students under the age of 18 are unlawful and subject to prosecution. Sexual intercourse between persons in authority and persons under the age of 18 is unlawful and subject to prosecution under the sexual assault and/or child sexual abuse statutes, depending upon the circumstances of the case.
CA Family Code § 6927	Minors, 12 years of age and older, may consent to the provisions of medical care related to: the diagnosis or treatment of a sexual assault and the collection of evidence.
CA Family Code § 6925	Minors, 12 years of age and older, may consent to the provisions of medical care related to: the prevention or treatment of pregnancy.
CA Family Code § 6926	Minors, 12 years of age and older, may consent to the provisions of medical care related to: the diagnosis or treatment of sexually transmitted diseases.
CA Family Code § 6921	Consent given by a minor cannot be negated or taken away by an adult.
CA Family Code § 6928	Professional personnel rendering medical treatment for sexual assault to a minor are required to attempt to contact the minor’s parent(s) or legal guardian, and to note in the minor’s treatment record the date and time the attempted contact was made and whether the attempt was successful or unsuccessful. This provision is not applicable when the professional person reasonably believes the parent(s) or guardian of the minor committed the sexual assault on the minor.
CA Family Code § 6924	A minor, 12 years of age or older, may consent to mental health treatment or counseling on an out-patient basis, or to residential shelter (runaway house or crisis resolution center) services, or both. The professional person counseling the minor can legally exclude the minor’s parent or guardian from the counseling, if the involvement is deemed inappropriate. If so, the parent is not liable for payment of services.

While education on legal safety and protections is important for survivors, the harm experienced from assault goes much further than legal damages. It is critical that advocates make an effort to ensure teen survivors are aware of the long-lasting emotional and mental effects of assault. Teenagers need to know that these effects can continue to develop far after the assault took place, and it may be beneficial to inform the teen about the various ways individuals respond to traumatic events, so they are empowered and informed on how to combat and seek healthy and effective methods of treating the impacts.

4. Counseling/Advocacy Issues and Concerns

Sexual assault can thwart the development of the teenage mind entirely, toxifying the healthy progression of self-esteem and respect. The following are some ways in which teenagers can be harmed emotionally:

- Loss of trust in themselves and others; blaming themselves for making choices they now believe were not “good” or “safe.”
- Emotional reactions (e.g. feeling responsible, feeling guilty, altered sense of themselves as different from others, fear and anxiety, regressive and dependent behavior, irritability and anger, suicidal ideation, posttraumatic stress reactions).
- Behavioral reactions (e.g. sexualized behavior, victim to perpetrator cycle to cope with their own sense of vulnerability and trauma, running away, self-harm (cutting or burning), criminal activity, substance abuse, hyperactivity, sleep problems, eating disorders).
- Fear of going back to school, if perpetrator attends the same school or if other students know about the sexual assault.
- Fear of family reactions. Types of family reactions include: normally involved parents; non-involved parents who do not provide any support; reactive and controlling parents who become very strict and rigid in response to the sexual assault or deny access to services needed by the teenager. Some parents actively seek to breach confidentiality privileges to which the teenager is entitled.

It is crucial that counselor/advocates strive not only to support and empower youth survivors with the information they need to understand what abuse and sexual assault look like, but also engage the systems that affect teens. Advocates must urge schools, where teens spend a large portion of their time, to take an active role in preventing abuse and providing a safe learning environment with active enforcement of Title IX protections. It is advised that counselor/advocates become valued resources to secondary schools and colleges and offer their support in providing on-site advocacy to teens while maintaining the teen’s confidentiality.

Additional Mental Health Issues Resulting from Sexual Assault

Depression	The loss of bodily autonomy is often difficult to cope with. It can create feelings of hopelessness, despondency, and lead to diminishment in one's sense of self-worth. These feelings can lead to depression that may range from mild and fleeting to intense and debilitating.
Anxiety	The loss of bodily autonomy coupled with the fear that the attack could happen again, can cause intense anxiety. Some may develop a phobia of being in large crowds/public, and others suffer panic attacks, symptoms of physical anxiety, or a chronic type of fear of the type of person who harmed them.
Personality Disruptions	Some evidence suggests that personality disruptions such as borderline personality can sometimes be the result of sexual abuse. The behavior associated with these personality disruptions could actually be an adaptation to abuse.
Attachment Disruptions	It can be challenging, particularly in children who have been abused, to form healthy attachments with others.
Addiction	Research suggests that abuse survivors are 26 times more likely to use drugs. Drugs and alcohol can help numb the pain of abuse, but often, substance abuse can lead to the development of different concerns.
Triggers	Triggers are stimuli that remind survivors of the abuse they experience. A rape victim whose attacker chewed spearmint gum might be triggered into a flashback by the smell of spearmint, for example.

How do the above struggles translate over gender and sexual orientation lines? Does it make a difference whether you are a male survivor, or if you are homosexual or transgender?

- Sexual assault occurs because of the perpetrator's misuse of power and control, not because of the teen's sexual orientation, appearance, physical size, or strength.
- However, LGBTQI+ youth are at higher risk for experiencing dating violence than heterosexual youth; stigma about being LGBTQI+ may partly explain this difference.
- For example, an LGBTQI+ partner might misuse their power by threatening to "out" the other.
- According to a 2015 Youth Risk Behavior Survey, LGBTQ students were 140% more likely to not go to school at least one day during the 30 days prior to the survey because of safety concerns, compared to heterosexual students.

- While not a direct measure of school performance, absenteeism has been linked to low graduation rates, which can have lifelong consequences.
- LGBTQI+ teens are at greater risk for depression, suicide, substance abuse, and behaviors that can place them at increased risk for HIV and other sexually transmitted diseases.

Advocating for teen survivors can be complicated because of their minor status. Because teens lead full lives with activities and pressures that can dominate their world view. When sexual assault enters their lives, it becomes the role of the counselor/advocate to help teens manage the physical and emotional impact. Beyond the immediacy of the sexual assault, counselor/advocates will want to stay on top of any systems advocacy teens will need to stay on track as they advance toward adulthood. This advocacy may include: attending to academic accommodations with schools, managing family members' responses, ensuring access to proper

medical care to which teens are entitled, and navigating the legal system as it pertains to minors. Please ensure that counselor/advocates comprehend the various layers of advocacy associated with working with teen populations.

5. Commercially Sexually Exploited Children and Youth

- Some teenagers engage in sex trading for material goods regardless of socioeconomic status. Peer pressure may increase their vulnerability. Gang initiation rites may also be a factor.
- Some teenagers who are runaways, throwaways, deserted or homeless engage in survival sex or trading sex for money, drugs, food, and shelter. Often, sexual abuse, physical abuse, emotional abuse, domestic violence, substance abuse, homelessness, or other type of dysfunction existed in the family to cause the child or teenager to leave home.
- Some teenagers become homeless as a result of disclosing their sexual orientation (i.e. “coming out”) to parents or guardians who may have disdain toward the LGBTQ community. As a result, many may end up on the street trading sex for money, shelter, food, etc.
- Some teenagers are involved with a “pimp,” or a person who provides shelter, clothing, food, money, and, theoretically, comfort, affection, understanding, and protection. Psychological manipulation, isolation, fear, and sometimes extreme physical and sexual brutality are used by the pimp to keep the minor child under control.

What is human trafficking?

- Human trafficking is the exploitation of human beings through force, fraud or coercion for the purposes of commercial sex or forced labor. Any person under the age of 18 who performs a commercial sex act is considered a victim of human trafficking, regardless of whether force, fraud, or coercion was present.
 - California is particularly vulnerable to human trafficking because of factors such as: proximity to international border, numerous ports and airports, significant immigrant populations and large economies that include industries that attract forced labor.
 - Los Angeles is a top point of entry into this country for victims of slavery and trafficking. The diverse communities of the city make it easier to hide and move victims from place to place, making it very difficult for law enforcement to locate potential survivors.
- See website: www.HumanTrafficking.com or the California-based Coalition to Abolish Slavery and Trafficking (CAST) at www.castla.org for further information on sex trading and trafficking.



Unit E – Crisis Intervention

TOTAL HOURS REQUIRED: At least 6 Hours

The purpose of this section is to provide a broad framework of understanding survivor-centered and trauma-informed principles and practices in a Rape Crisis Center setting. Doing so will help advocates better understand the importance of safety assessments, suicide lethality, and confidentiality when working with survivors of sexual assault.

1. Survivor-Centered and Trauma-Informed Principles and Techniques

Survivors who call in to a Rape Crisis Center hotline are often in a state of immediate crisis. They may be experiencing that crisis for a variety of reasons. Perhaps they are in the immediate aftermath of an assault or have been triggered by an event many years after the actual rape. No matter the cause, survivors look to counselor/advocates for help in managing and surviving while in a state of crisis.

Crisis intervention skills are useful not only in the times of immediate crisis, but throughout the counselor/advocate's work with survivors in a variety of settings. The crisis intervention techniques included in this section will also help counselor/advocates provide support to the friends and family members who surround the survivor, as the survivor is not the only person who might have an experience of crisis in the aftermath of an assault.

Counselor/advocates who work with survivors need to develop skills to provide support and assistance during times of crisis. In order to empower the survivor, counselor/advocates should use a survivor-centered approach with the goal of providing trauma-informed services.

A **survivor-centered approach** prioritizes the rights, needs, and wishes of the survivor. The survivor has a right to:

- be treated with dignity and respect instead of being exposed to victim-blaming attitudes;
- choose the course of action in dealing with the violence instead of feeling powerless;

- privacy and confidentiality instead of exposure;
- nondiscrimination instead of discrimination based on gender, age, race/ ethnicity, immigration status, ability, sexual orientation, HIV status or any other characteristic; and
- receive comprehensive information to help them make their own decision instead of being told what to do.

The goal of the survivor-centered approach is to empower survivors and allow them to have control over their recovery.

Trauma-informed services are those in which service delivery is influenced by an understanding of the impact of interpersonal violence and victimization on an individual's life and development. To provide trauma-informed services, counselor/advocates must understand how violence impacts the lives of the people being served, so that every interaction is consistent with the recovery process and reduces the possibility of re-traumatization. When a trauma-informed program recognizes the pervasive impact of interpersonal violence, the experiences of survivors are validated and the difficulties they face in seeking services are recognized. This validation and recognition increase the survivor's sense of safety and hope. Interpersonal violence is not just an isolated event in a survivor's life. Trauma has a broad impact, affecting their identity, relationships, expectations of themselves and others, the ability to regulate their emotions, and their view of the world.

This principle recognizes that interpersonal trauma needs to be healed in a context in which the interpersonal relationships are the opposite of traumatizing. Counselor/advocates must be aware of the inherent power imbalance in the helper-helped relationship and do their best to flatten the hierarchy.

Interpersonal violence involves a perpetrator and a victim. The trauma of this "power over" experience for the victim is best healed in a very different type of relationship: one that is collaborative and empowering. When the counselor/advocate asks the survivor to do something, the survivor may feel they

must do what is suggested to get help. This instinctive compliance may be especially characteristic of survivors who have had to repeatedly conform to an abusive authority, or who have experienced abuse as the price they had to pay to get attention or care. To reduce that pressure to conform, the survivor's right to direct the treatment must be made explicit. It must be stated that they have the right to refuse to answer a question, refuse treatment, or request an alternative treatment. Ideally, within the limits of the organization, they may also be able to request a different counselor/advocate and modify their services.⁷

Before we get into specific crisis intervention techniques, it is important to make a clear distinction between crisis intervention and long-term therapy. Crisis intervention is not therapy. Crisis intervention tries to discover what an immediate impetus to an emotional crisis is, and then work with the survivor to find the best possible and least restrictive solution to the problem. For advocates, it also involves offering practical resources and options to help survivors manage difficult situations resulting from sexual violence, such as disruptions in housing arrangements. Long-term therapy attempts to get to the root of the problem and empower the survivor to change from the inside out.

Crisis intervention and advocacy is also not friendship or a personal relationship—it is a helping relationship.

Key points

- **Advocacy is NOT:**
 - Being a friend: in the sense that friendship is reciprocal, casual, and not goal-oriented.
 - Being a therapist: directing the client's life in any way, intervening with some goal other than being supportive, applying any therapeutic technique or model.
 - Being a "rescuer": wanting to save clients from themselves or their situation, wanting to remake the client to fit some idea of who you think they should be.
 - Being a "crusader": carrying out some personal conviction that is not compatible with the client's frame of reference.⁸
- **Advocacy IS:**
 - Providing supportive assistance.
 - Responding to feelings expressed by the survivor and staying with her emotional focus.
 - Validating feelings and concerns.
 - Identifying and supporting strengths and healthy coping skills.
 - Helping the survivor anticipate the next steps.
 - Exploring options and choices.
 - Discussing decisions to be made.
 - Providing educational information to address any misconceptions the survivor may have about sexual assault (e.g. self-blame).

Boundaries

Some survivors may ask the counselor/advocate about their personal experience with sexual assault. In the event of these questions, it is important that the counselor/advocate re-focus the survivor and re-iterate that they are there to talk about the survivor's experiences. It is not appropriate for the counselor/advocate to reveal their own ideas, attitudes, and experiences, although they can educate the survivor about the prevalence of sexual assault.

⁷ <http://www.calcasa.org/wp-content/uploads/2010/12/CALCASA-2008-Support-for-Survivors-Mini-Book.pdf>

⁸ <http://www.ccasa.org/wp-content/uploads/2014/01/Sexual-Assault-Advocacy-and-Crisis-Line-Training-Guide.pdf>

Review the techniques of active listening

Mirroring speech, speaking in a supportive voice, avoiding rapid speech, ensuring attentive body language, and making eye contact.

Be sure to hit these points

Following these guidelines for active listening will help the counselor/advocate in defining and understanding the survivor's problem.

- Concentrate on the content of what is being said; get rid of your own distractions.
- Focus on what the speaker is saying rather than on what you'll say next.
- Repeat in your mind what the individual is saying.
- Listen to the tone of voice.
- Listen for emotions, but, remember, there is no one "right" word for describing them.
- Take time before speaking to think.
- Label the feelings in your own words.
- Check the accuracy of your understanding periodically during the conversation.
- Use the individual's response to your reflection to modify your understanding of the statement and to improve your reflection.
- Resist the temptation to give advice (for example, "You should...").
- Pay attention to nonverbal behavior. It is important that you practice active listening techniques so that they are incorporated into your natural speech and do not seem forced. Some possible active listening responses: "I get the feeling..."; "I get the impression..."; "I'm hearing that..."; "It sounds to me like..."; "I sense you're..."; "I'm wondering if..."; "Tell me about it"; "I'd like to hear more"; "I'd be interested in understanding..."; "How is it that..."⁹

2. Needs Assessment and Survivor Options

Review Needs Assessment

- Assess physical needs for safety, emergency needs, medical care, food, clothing, shelter, and transportation.
- Assess personal strengths, vulnerabilities, and family and friend support system.
- Assess personal functioning (e.g. whether under the in/voluntary influence of substances).
- Assess personal capabilities (e.g. physical, developmental, and mental disabilities).
- Assess language and the need for translation. Regardless of bilingual abilities, explain that advocates do not provide translation during any law enforcement or medical interviews. Do not use family, friends, or children as translators. Request law enforcement and/or medical site to provide a translator.

Review Survivor Options

- Reporting to a law enforcement agency versus not reporting. Discuss evidence preservation (e.g. rapid deterioration of evidence, not showering to preserve evidence, clothing collection). See Appendix C Call-out Process: Survivor Contacts Rape Crisis Center.
- Medical options include medical/evidentiary exam as well as medical evaluation and treatment (e.g. injuries, pregnancy, STDs, and payment).
- The Violence Against Women Act (VAWA) requires that sexual assault survivors can receive a forensic sexual assault medical examination without the requirement of participation or cooperation with law enforcement. See California Penal Code §13823.95 and Unit G.
- Rape Crisis Centers offer counseling services to survivors, whether or not a report was made to law enforcement.
- Cal OES Form 2-924 is a new sexual assault forensic medical examination form developed in 2012 for use when a survivor is uncertain about future participation with law enforcement. The

⁹ <http://www.calcasa.org/wp-content/uploads/2010/01/SFS-Full-Manual.pdf>

exam is often referred to as the “VAWA Exam” or the “Abbreviated Exam.” Form 2-924, defines what perishable evidence needs to be documented, collected, preserved, and packaged in the sexual assault evidence kit used by the local law enforcement jurisdiction.

- Third Party Report (TPR). Rape crisis advocates serve as a third party to relate information (with written consent) about the assault and/or perpetrator to law enforcement. The information may help in the investigation of future and/or past crimes committed by the same perpetrator and is a positive connection between law enforcement and the community, the lack of which is often the reason of under-reporting.

***NOTE:** policies vary by jurisdiction; all law enforcement agencies may not accept TPRs.*

- Need for legal options (e.g. protective orders, civil remedies).
- Clarify need and desire for continued advocacy, support, counseling, and other services that can be provided.
- Note that these options are described in more detail in other units of this manual.

Discuss Development of an Action Plan

- Prioritize short-term and long-term action plans based on survivor needs and decision-making.
- Emphasize a holistic approach to meeting the survivor’s needs and utilizing community resources to solve problems outside the domain and resources of the Rape Crisis Center.
- Discuss how and where follow-up services can be provided.
- Review how survivors can access community services. Stress the significance of ensuring meaningful access.
- Discuss the importance and process of making a warm referral.
- Discuss agency protocol for making referrals to therapists.
- Describe the counseling resources available through the Rape Crisis Center. Review indicators that the survivor’s needs exceed the capabilities of the center. Discuss how to determine when and how to make appropriate referrals to local therapists and mental health counseling agencies.
- Emphasize need to monitor the situation for emergence of mental health problems (e.g. depression, suicidal ideation), and to make appropriate referrals.

3. Suicide Lethality and Safety Assessments and Interventions

A SUBJECT MATTER EXPERT (E.G. SUICIDE PREVENTION TEAM) IS REQUIRED FOR THIS SECTION.

Assessment

- Discuss listening for indicators of despair, hopelessness, a desire to “end it all,” and how to ask about the possibility of suicide.
- If survivor has thoughts of suicide, ask if they:
 - have a plan and how they will carry it out (e.g. overdose of pills, gun, etc.);
 - have thought about suicide before, if they tried it, and what happened; and
 - are currently on any medications and the purpose of the medication.
- Review agency policy and procedures regarding a survivor with a specific suicidal plan.

Intervention

- Review agency protocol and options for responding to these situations.
- Discuss option of making a suicide prevention contract and the responsibilities involved in a contract.
- Emphasize that all calls should be taken seriously and that any intimations of future negative actions should be explored.
- For suicide-only callers, discuss how to explore the connection of whether the caller may have been sexually assaulted or sexually abused as a child. If this history is present in their life, explain that survivors can move through these feelings and not have their lives defined by what happened to them in the past.
- Discuss follow-up plan.

Debriefing and Self-Care for Counselor/Advocates

- Validate how difficult these calls are to handle.
- Discuss counselor self-care.
- Emphasize importance of consulting with coordinator on these situations.

4. Confidentiality

Maintaining confidentiality while still effectively advocating for survivors is one of the trickiest issues faced by counselor/advocates. Counselor/advocates must understand that their role does not include volunteering to assist anyone other than the survivor in processing information from or to the survivor. Their role is to promote the needs of the survivor, not to make anyone else’s job easier.

Counselor/advocates should consistently prepare survivors for upcoming investigations, medical procedures, and trial, always empowering the survivor to ask questions of personnel if there is misunderstanding or confusion. Counselor/advocates must clearly communicate to survivors that their purpose is to advocate for the survivor, assist them in maintaining their autonomy and provide support.¹⁰

What is confidentiality?

- Generally, anything said by a sexual assault victim to a sexual assault counselor is confidential and privileged based on California Penal Code 1035-1036.2.
- Preserving confidentiality is crucial to the proper functioning of a Rape Crisis Center. Confidential means that information is kept private and not disclosed without the prior written consent of the survivor. Confidentiality is also a key component of respect, dignity, empowerment, and justice. The information disclosed while providing advocacy services belongs to the survivor. They decide what information to share and what information to withhold.
- An advocate should establish with a client that everything they disclose is confidential (unless an exception applies) and cannot be shared with any other party without a signed release from the client. The consent for release of individual survivor information must be given by the person, or the child and the nonabusive parent of an unemancipated minor, or a nonabusive guardian of a person with disabilities.¹¹

¹⁰ <http://www.calcasa.org/wp-content/uploads/2010/01/SFS-Full-Manual.pdf>

¹¹ <http://www.ccasa.org/wp-content/uploads/2014/01/Sexual-Assault-Advocacy-and-Crisis-Line-Training-Guide.pdf>

Limits to Confidentiality

- There are some limitations to confidentiality. Some of these limitations apply only to therapists. Circumstances that could cause the counselor/advocate to reveal information to someone else are:
 - The survivor signs a release of confidentiality.
 - Another person is present during the communication (California Penal Code 1035.4). Confidential privilege does not apply if a third party such as a medical or law enforcement representative is present when the conversation occurs.
 - A judge issues an order (California Penal Code 1035.4).
 - Survivor is a danger to herself (see previous section on suicide) or to others (California Evidence Code 1024).
 - Refer to supervisor for specific information and direction.
 - Review agency policy on counselor/advocate's requirements to maintain confidentiality and agency procedures regarding confidentiality.
 - Although counselor/advocates are not generally mandated reporters of abuse, there are some situations where abuse must be reported. See Unit C (Child Abuse) for detailed information.

It is very important for advocates to know and understand their agency's policies and protocols for taking notes regarding interactions with survivors. This includes learning about note retention and destruction practices. When taking and keeping notes, a "less is more" approach is advisable. It is helpful to think of notes as being necessary for a time-limited, specific purpose during which the survivor is giving you permission to serve her or his needs. When the time-limited purpose is served, the note is no longer needed.

For more detailed information on confidentiality in this Guide, consult:

- Unit I. Law Enforcement, 1. Rights of the Victim/Survivor
- Appendix B: Victim's Rights

5. Crisis Intervention with Significant Others

Family and friends may experience the stages of a crisis reaction when they learn that their loved one has been sexually assaulted.

The Counselor/Advocate SHOULD

- Support the survivor as they decide who needs to be told about the assault;
- Help them anticipate reactions, including asking about the survivor's safety;
- Provide assurance that the survivor is not responsible for the reactions of family/friends; and
- Affirm that the survivor's main objective is to move through the crisis to recovery.
- Recognize that family and friends may experience the stages of a crisis reaction.
 - Acute reactions include shock, disbelief, anxiety, fear, rage, sadness, and numbness.
 - Partners, especially male, or family members may experience homicidal fantasies, fear over the survivor's safety in the present and in the future, thoughts of guilt for not having protected the survivor, engage in victim blaming, experience continuing rage fantasies, and feel shame and embarrassment over what happened to a member of their family.
- Discuss how to respond to significant others' issues, concerns, and feelings.
- Provide educational materials about sexual assault, survivor needs and feelings, keeping confidentiality, and the possible range of their reactions.
- Emphasize how the survivor's ability to recover can be enhanced or impaired by family member's or friend's reactions.
- Advise partners and significant others that it takes time for the survivor to recover. Sometimes, after a partner's reactions and needs subside, they expect the survivor to be on the same timeframe for crisis resolution as they are and become frustrated with them for not returning to their previous state of well-being.

- Directly discuss the issue with family and friends when their reactions conflict with survivor recovery and redirect their focus to the needs of the survivor.
- Explore the availability of support groups (either within your agency or elsewhere) for nonoffending parents or partners of survivors.
- Discuss the indicators for making referrals to a counselor for family members and friends, if their needs for services exceed the capability of the Rape Crisis Center or continue to conflict with survivor recovery.

6. Continuing Support

Crisis intervention, taking care of the immediate aftermath of the assault, is just the first step. After the dust has settled, the survivor is in a different place mentally and may require assistance to reintegrate back into their life.

Your work with survivors will almost always include helping them to connect with additional services outside the Rape Crisis Center.

Discuss the Importance of Continuing Support

- Continuing support is integral to the healing process for survivors and reduces the impact of posttraumatic stress reactions. It may mean continued assistance in problem-solving logistical issues (e.g. shelter, transportation), individual counseling, group counseling, support groups, or family counseling).
- Continuing support involves going the extra mile to support the survivor in achieving recovery, increasing access to community resources, and working through barriers to assistance.
- A balance is needed between encouraging the survivor to engage in problem-solving and avoiding being defeated when they encounter typical problems in seeking assistance. The work that your Center does to reduce barriers to services, educate community professionals, and offer warm referrals will make it easier for survivors to connect with additional services.

In the course of providing support to sexual assault survivors, a wide variety of issues are likely to arise.

They may include

- emotional reactions;
- physical and/or emotional safety;
- interruption of the ability to work or attend school;
- problems in the family;
- isolation; or
- in most cases, a complex combination of such issues.

Explore Options, Assess Options, and Make a Plan

- Review making referrals to community resources, if the needs of the survivor can be more effectively addressed by another agency (e.g. emergency food and housing). Referring a survivor should involve a “hand-to-hand” process; unless the survivor is fully capable of making calls, dealing with voice mail mazes, responding to unhelpful people by asking for assistance from someone else or a supervisor, and addressing eligibility criteria.
- Emphasize being creative about providing continuous support (e.g. meeting at a coffee shop or local police department; or giving phone cards).

7. Identifying and Responding to Sex Trafficking

One subset of clients in crisis intervention may be sex trafficking victims. Sex trafficking victims have telltale identification signs that enable the counselor/advocate to identify them.

The situations that sex trafficking victims face vary dramatically.

- Many victims become romantically involved with someone who then forces or manipulates them into prostitution. Some are forced to sell sex by their parents or other family members.
- Others are lured in with false promises of a job, such as modeling or dancing. It is more common for victims to be fraudulently led into what they believe is legitimate work or coerced into things they don't want to do through promise of money, safety, shelter, or other forms of support.
 - For example, individuals experiencing homelessness or runaway youth who are in the position of surviving on their own may be forced to exchange sex for survival needs, such as housing or shelter. This can lead to recruitment into the commercial sex industry or a more organized or regular trading of sex for money, shelter, or things of value.
- Victims may be involved in a trafficking situation for a few days or weeks, or they may remain in the same trafficking situation for years. They can be U.S. citizens, foreign nationals, women, men, children, and LGBTQ individuals. Vulnerable populations are frequently targeted by traffickers, including runaway and homeless youth, as well as victims of domestic violence, sexual assault, war, or social discrimination.
- Sex trafficking occurs in a range of venues including fake massage businesses, via online ads or escort services, in residential brothels, on the street or at truck stops, or at hotels and motels.

Key Statistics

- Since 2007, the National Human Trafficking Hotline, operated by Polaris,¹² has received reports of 22,191 sex trafficking cases inside the United States. Find more Hotline statistics here.
- In 2016, the National Center for Missing & Exploited Children estimated that 1 in 6 endangered runaways reported to them were likely sex trafficking victims.
- Globally, the International Labor Organization estimates that there are 4.3 million people trapped in forced sexual exploitation.
- In a 2014 report, the Urban Institute estimated that the underground sex economy ranged from \$39.9 million in Denver, Colorado, to \$290 million in Atlanta, Georgia.

Questions for the Survivor

- Can you leave your job or house when you want?
- Where did you get those bruises or is anyone hurting you?
- Do you get paid for your employment? Is it fair? How many hours do you work?
- (If foreign national) How did you get to the U.S. and is it what you expected? Are you being forced to do anything you don't want to do?
- Are you or your family being threatened?
- Do you live with or near your employer? Does your employer provide you housing? Are there locks on doors or windows from outside?
- Do you owe debt to anyone?

¹² <https://polarisproject.org/sex-trafficking>

Signs of Sex Trafficking

- **Work/Living Conditions**

- The individual(s) in question:
 - Is not free to leave or come and go as they wish;
 - Is under 18 and is providing commercial sex acts;
 - Is in the commercial sex industry and has a pimp / manager;
 - Is unpaid, paid very little, or paid only through tips;
 - Works excessively long and/or unusual hours;
 - Is not allowed breaks or suffers under unusual restrictions at work;
 - Owes a large debt and is unable to pay it off;
 - Was recruited through false promises concerning the nature and conditions of his/her work;
 - High security measures exist in the work and/or living locations (e.g. opaque windows, boarded up windows, bars on windows, barbed wire, security cameras, etc.).

- **Poor Mental Health or Abnormal Behavior**

- The individual(s) in question:
 - Is fearful, anxious, depressed, submissive, tense, or nervous/paranoid;
 - Exhibits unusually fearful or anxious behavior after bringing up law enforcement;
 - Avoids eye contact.

- **Poor Physical Health**

- The individual(s) in question:
 - Lacks health care;
 - Appears malnourished;
 - Shows signs of physical and/or sexual abuse, physical restraint, confinement, or torture.

- **Lack of Control**

- The individual(s) in question:
 - Has few or no personal possessions;
 - Is not in control of his/her own money, no financial records, or bank account;
 - Is not in control of his/her own identification documents (ID or passport);
 - Is not allowed or able to speak for themselves (a third party may insist on being present and/or translating).

- **Other**

- Claims of just visiting and inability to clarify where they are staying or their address;
- Lack of knowledge of whereabouts and/or do not know what city they are in;
- Loss of sense of time;
- Has numerous inconsistencies in his/her story.¹³

If the counselor/advocate suspects someone is a victim of human trafficking, they should take the following actions

- Ask the person if you can help them find a safe place to go immediately.
- If the person needs time, create an action plan with them to get to a safe place when they are ready.
- Call and make a report to the human trafficking hotline at 1.888.3737.888. The hotline has language capabilities, so any individual can call directly if they choose.

If you need more guidance, you can call and talk through the case with USCCB Anti-trafficking program staff at 202.541.3357.¹⁴

8. Role Plays

Draw from the Rape Crisis Center's crisis intervention experiences on hotline calls, in-person meetings with survivors, and accompaniment and advocacy services to create scenarios for participants to role play either in small groups or with the group as a whole.

¹³ <https://polarisproject.org/sex-trafficking>

¹⁴ <http://www.usccb.org/about/anti-trafficking-program/identifying-trafficking-victims.cfm>



Unit F – Referral Resources and Methods

TOTAL HOURS REQUIRED: At least 1 Hour

As advocates and counselors, it is important to help the survivor see some of the resources available to help the survivor and help determine what might be useful, if wanted or needed. In order to do this effectively, Rape Crisis Centers must have procedure in place for how to identify community resources and referrals and ensure that they are appropriate and current.

It is our responsibility to educate ourselves about the resources and opportunities that are available and to get as much information about them as we can to help survivors make informed decisions about what they might want to do.

1. Procedures to Access Local Resources and Referrals

Ensure that survivors have access to appropriate referrals outside of the organization and the procedures to access local resources and referrals.

- Explain key community referrals available to support survivors of sexual assault.
- Emphasize plan for addressing unique referral needs.
- Best practice is to offer three referrals when possible; and taking proximity to the survivor’s residence into consideration when making referrals.
- The process for making a referral is:
 - Identify the need;
 - Determine and discuss the options;
 - Access the options; and,
 - Make a plan.

Referral Considerations

- Actively engage in research and outreach in your community to maintain up to date information and referrals resources. Be sure to include resources for groups that have been discriminated against.

- Issues impacting undocumented sexual assault survivors. Be sensitive to the political climate and consider fear of reporting and/or accessing services, as well as language barriers.
- Provide advocates with a resource manual of community agencies. Some communities publish comprehensive resource and referral manuals.
- Identify agencies with which the Rape Crisis Center has a Memorandum of Understanding or an Operational Agreement.
- Describe any of the referral agency’s limitations, resources and philosophy, and sliding scale payments.
- Ensure updated referral information, stay current on the quality of referral resources, and check whether referral agencies have publications, brochures, or website information that may be useful. It is best practice to update referrals on an ongoing basis, minimally annually.

As you begin to work with other organizations, specifically colleges and institutions of higher education and law enforcement, it is important to establish a **Memorandum of Understanding (MOU)**. A Memorandum of Understanding is a formal agreement made between two institutions that stipulate the parameters and terms of services between the two organizations. By agreeing to partner with these agencies, you are adopting best practices of confidentiality when working with survivors.

While we want survivors to have access to a full range of services, it is also important to not coerce survivors to participate in programs that they have no interest in taking part in. Remember that the survivor is the expert in their situation and knows what is best for themselves. Discuss their concerns about accessing services and let them know that they can participate in additional programs and services anytime in the future.

2. Local Referrals and Supportive Services

It is important to consider survivors' needs as whole people, rather than focusing exclusively on addressing their victimization. Again, take your cues from the survivor and help her/him to develop a plan and access the services that s/he is seeking. The following is a list of the types of referrals that survivors may need, which should be included in the Rape Crisis Center's referral booklet:

- Healthcare facilities
- Social services
- Food Banks
- Homeless Shelters
- LGBTQI+ Service Centers
- Independent living centers
- Consulates
- Substance Abuse Treatment facilities
- Faith-based Organizations
- Legal Aid
- Counseling services and support groups
- Self-defense classes
- Victim Compensation Board

Now that we have discussed both the importance of knowing the organizations in your area and the best referrals for clients seeking assistance, let's take some time to refine our approach of providing referrals to culturally specific organizations.

3. Best Practices and Strategies for Warm Referrals and Community Referrals

Rape crisis advocates do their best to provide options and choices and meet survivors where they are. In general, we operate under an empowerment model, supporting survivors in taking steps to regain power and control in their lives, rather than stepping in and being directive or taking charge. In some instances, the survivor may request that you assist by connecting her/him to an organization. In this case, we may need to make a warm referral.

A **cold referral** involves providing information about another agency or service so that the survivor can contact them on her/his own. There are some advantages and disadvantages to cold referrals. This process gives responsibility to the survivor to take action on their own behalf. However, there is a greater likelihood that the referral will not be used.

A **warm referral** involves contacting another service provider on the survivor's behalf by making an introduction by phone or through electronic communication. A three-way conversation (whether face to face or by telephone) or written communication that includes the survivor in which the referring organization introduces the survivor and explains why the referral is being made.¹⁵ The advantage to a warm referral is that survivors may feel connected to the other organization, thereby increasing the likelihood of accessing services. A disadvantage to warm referrals is that the process relies on someone being available at the other service at the time the survivor is to be referred.

¹⁵ Adapted from <http://www.complexneeds capable.org.au/outreach-aftercare.html> and <https://www.ag.gov.au/FamiliesAndMarriage/Families/FamilyRelationshipServices/Documents/Referral%20Guidelines.pdf>

Making More Effective Referrals

When survivors need a referral for culturally specific programming, they may not be sure how to go about obtaining those services. We also want to make sure that we are providing relevant resources that will result in increasing the survivor's wellbeing after trauma, especially for those from marginalized populations. One of the Five Domains of Wellbeing from the Full Frame Initiative¹⁶ is having "meaningful access to relevant resources." For survivors of sexual assault, this means that we want to provide resources that are timely, relevant, and "not onerous, and are not degrading or dangerous."

Meaningful access is important to consider because we do not want to give survivors resources that will create additional burdens to seeking services. For example, if a survivor would like to seek mental health treatment at a center that specializes (linguistically and culturally) in working with Latinx survivors, we may not want to provide them with a referral to County Mental Health services.

Because of the various barriers to receiving services, advocates should take the extra step of providing additional guidance to survivors.

When survivors enter your organization, they may be experiencing a range of emotions because of their trauma and may not have the capacity to make the connections for referrals. For example, as sexual assault advocates, you do not want to hand them a slip of paper with numbers to different agencies and expect them to contact every single one to see if they qualify to receive services. Since Rape Crisis Centers should be working closely with their fellow community-based organizations, they should be able to make these necessary connections for survivors without making them take on more work while they are healing.

It is important to note that when providing these warm referrals, you should not be providing identifying information without survivors' written consent. These referrals should provide general information that a client will be coming into their facilities and will require services from their organization.

¹⁶ http://fullframeinitiative.org/wp-content/uploads/2011/05/Meaningful_Access_factsheet.pdf



Unit G – Multidisciplinary Engagement

TOTAL HOURS REQUIRED: At least 2.5 Hours

The purpose of this section is to provide a broad overview of how a multidisciplinary team functions within the context of supporting survivors of sexual assault and violence. As the issue of sexual assault has become more visible, the need for Rape Crisis Centers to interface with a variety of systems is more critical than ever. Understanding the different roles of each team member from medical professionals, law enforcement, corrections staff, campus and military representatives and how they all work together, will help the counselor/advocates evaluate their own role and responsibilities within the team.

A multidisciplinary team is a group composed of individuals with content expertise—the diversity in disciplines allows for a plurality of contributions from various perspectives and ultimately fosters long-lasting change. These collaborations bring together representatives from law enforcement, prosecutors, the medical community, and counselor/advocate services for the purpose of coordinating a response that provides comprehensive support for survivors. This allows for a sharing of resources as well as increased accountability across disciplines. A multidisciplinary team will often take the form of a SART (Sexual Assault Response Team), or a CCRT (Coordinated Community Response Team) and promotes relationship-building among members as a core value designed to support the goal of not only providing aid to individual survivors, but also of instituting systemic change.

1. History and Goals of Collaboration

The early idea for coordination of different individuals and players which led to what we know of today as SARTs and CCRTs (campus) began in the 1970s. The 1980s and 90s brought the concept of conducting joint medical/legal survivor interviews and the start of community-based exam facilities.

The 21st century brought national standards for core SART responders.¹⁷ The mission and goal of a multidisciplinary team is effective, competent, coordinated intervention to ensure the best possible outcome for survivors.

Working within a multidisciplinary team provides unique opportunities and challenges for the counselor/advocate. Although the goal of the team is to support the survivor, team members may have different perspectives on how to do this based on their background. For example, law enforcement may prioritize the collection of evidence and conduct an investigation in order to obtain justice for the survivor. However, the survivor may have a myriad of reasons for not wishing to pursue that avenue. The counselor/advocate has the responsibility of advocating for the wishes of the survivor and the opportunity to convey their perspective to other members of the team. Through this sharing of ideas and perspectives, it may be possible to create policies and procedures that are more beneficial to all.

Advantages of a Multidisciplinary Team Response

- Collaboration broadens ownership of the problem of sexual assault and defines it as a community problem.
- Logistically, no one agency can successfully handle all aspects of a sexual assault and every agency has its strengths and limitations.
- Effective interagency collaboration generates a competent, coordinated response to produce the best possible outcome for survivors.

The multidisciplinary team should be designed to reflect the diverse needs and unique characteristics of the community. It is important to include key stakeholders from the community. For example, on a college campus, a multidisciplinary team will want to include a representative of the Office of the President.

¹⁷ <https://ovc.ncjrs.gov/sartkit/about/about-evolve-hs.htmls>

2. Criminal Justice: Medical, Law Enforcement, Prosecutors

Medical, law enforcement, and prosecutors each have different priorities and roles to play within the trauma response system. For example, medical personnel are charged with assessing for survivor/patient injuries, conducting and collecting evidence through the forensic evidentiary examination. Law enforcement officials have the responsibility of conducting a thorough investigation, gathering and preparing facts and evidence for presentation to the district attorney. Prosecutors evaluate all of the evidence and make a determination about if it is sufficient to file charges. If so, they are responsible for handling the pretrial hearings, prosecuting the case and seeking appropriate sentencing if the individual is found guilty of committing the crime.

Key points

- Role of medical service provider
 - Provide medical evaluation and treatment
 - Provide medical evidentiary examinations, also called forensic medical examinations
- Role of law enforcement
 - Responds to secure safety of victim and crime scene
 - Immediately or subsequently involves a detective for interviews/investigation
 - Requests forensic medical examination
 - Prepares case for review by the prosecutor
- Role of prosecutor
 - Reviews cases to determine if charges should be filed and files indicated charges
 - Interviews survivor early in the process
 - Handles proceedings (e.g. preliminary hearing, plea bargaining, trial, sentencing)
- Role of advocate
 - Understands how the institutions operate and when and how to advocate
 - Demystifies the process to ensure that survivor is able to make well informed decisions
 - Explains processes to survivor and provides support throughout

3. Military

Public awareness surrounding military sexual assault has risen in the last decade. The documentary *The Invisible War* helped to create a national dialogue about the extent of sexual violence within the military. For example, sexual assault is more common in a military context: In 2014, rates were 50% higher among active-duty women, and more than 100% higher among men, than in the Reserves.

Unique Barriers That a Survivor in the Military Might Face

- Loss of control over personal information (privacy)
- Potential damage to career (reduced in eyes of colleagues and commander)
- Fear of disciplinary action (collateral misconduct)
- Fear or re-victimization (by the system)
- Impact on training or deployment
- Retaliation

Options for a Survivor to Access Support While Enlisted or Following Discharge

- Sexual Assault Prevention and Response (SAPR) is a training program of the U.S. Military, designated to educate service members and to provide support and treatment for sexual assault survivors and their families.
- Available support for female veterans
- Rape Crisis Centers

4. Educational Institutions

Public awareness surrounding campus sexual assault has risen in the last decade. The documentary *The Hunting Ground* helped to create a national dialogue about the extent of sexual violence within the institutions of higher education. For example, one in five women has been sexually assaulted while in college,¹⁸ but college students are less likely to seek treatment or report the incident than their non-student counterparts.¹⁹

Risk Factors for College Students That May Make Them Vulnerable to Sexual Violence or Assault

- New found freedom and possible inexperience in navigating and making independent decisions
- Low self-esteem/depression
- Belief in strict gender roles (male dominance in relationships)
- Low income
- Heavy drug and/or alcohol use—often found at fraternity/Greek parties
- Having previously been the victim of abuse
 - Isolation—for example, freshman may feel isolated due to distance from their family support system, or international students may feel isolated due to limited English proficiency.
 - Low academic achievement
 - Lack of relationship experience can make it difficult for students to identify early warning signs of abusive behavior

Some of the Unique Challenges Presented by the College Campus Environment

- Athletic and Greek cultures may promote an environment of toxic masculinity
- International and/or undocumented students may have fears about reporting incidence of violence because of concerns over immigration status

18 Krebs, C.P., Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L. (2007). *The Campus Sexual Assault (CSA) Study*. Washington, DC: National Institute of Justice, U.S. Department of Justice.; Krebs, C.P., Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L. (2009). College Women's Experiences with Physically Forced, Alcohol- or Other Drug-Enabled, and Drug-Facilitated Sexual Assault Before and Since Entering College. *Journal of American College Health*, 57(6), 639-647.

19 Holtfreter, K. & Boyd, J. (2006) A Coordinated Community Response to Intimate Partner Violence on the College Campus, *Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, 1:2, 141-157.

5. Prisons/Jails/Detention Facilities

Public awareness surrounding sexual assault within detention has risen in recent years. The Prison Rape Elimination Act (PREA) has helped to create a national dialogue about the extent of sexual violence within the correctional and detention facilities. For example, in a 2011 federal survey, 4% of state prisoners and 3.2% of jail inmates stated they had experienced sexual abuse in a 12-month period. For juveniles, this number jumps to 9.5%.²⁰

Key Points to Cover

- Define what detention is:
 - prisons
 - jails, fire camps, lockups
 - juvenile facilities
 - immigration detention facilities.²¹
- The importance of supporting incarcerated and detained survivors and ensuring their access to the vital services that Rape Crisis Centers provide
- The basics of detention in America
- Demographics of who is in detention
- Dynamics of violence within corrections

Ways that the Culture Within Institutions May Allow or Encourage Violence

Discuss Structural Violence (when the rules, norms, or culture of an institution cause harm to people, including violations of human rights).

- Code of silence
- Normalized violence
- Prejudice
- Retaliation
- Isolation

Role Rape Crisis Centers Can Fill in Serving Detained or Incarcerated Survivors

- Letter writing
- Hotline calls
- Hospital Accompaniment
- In-person and group counseling
- Educating facility staff

²⁰ <https://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>

²¹ <https://en.wikipedia.org/wiki/Prison>, https://en.wikipedia.org/wiki/Youth_detention_center, https://en.wikipedia.org/wiki/Youth_detention_center

6. Advocate Role Clarification

The community-based rape crisis counselor/advocate holds a special role when working in a multidisciplinary team. The counselor/advocate's entire focus is on responding to the survivor's needs and wishes.

Key Functions of the Counselor/Advocate:

- The counselor/advocate's goal is to support the survivor's decision, irrespective of participation or involvement with the system.
- The counselor/advocate is likely the only person not involved in investigating facts or gathering evidence.
- The counselor/advocate does not have an agenda other than supporting the survivor's choices and providing information on navigating the system.
- The counselor/advocate should not do anything that may give the perception that they are an extension of the system (translation, assisting with photographs, relaying confidential information).
- Counselor/advocates can advocate most effectively when they understand the system or institution and its rule or regulations.
- Discuss Center's policy regarding continuity of care from the first contact to case closure, and the concept of advocacy and support:
 - Provides emotional support, counseling, and advocacy to assist the survivor with the process of healing.
 - Listens and empathizes with the survivor's feelings to reduce the isolation of the experience, informs, explains, clarifies, supports, and ensures that the survivor's needs are met to the fullest extent possible.
 - Aids with practical issues and concerns.
 - Assists the survivor in dealing with others such as family, law enforcement officers, forensic medical examiners, and legal personnel.
 - Respects and maintains survivors' confidentiality rights. Penal Code Sections 1035-1036.2 provide a client confidentiality privilege or "confidential communication" between the sexual assault victim counselor (who has completed 40 hours of required training) and the victim.
- The victim is the holder of the privilege. This means that sexual assault victim counselors cannot share information about the survivor with anyone without the expressed consent of the survivor or by order of the court following an in-chamber hearing by the judge. See Appendix B for statutory language.
- **NOTE:** If a third party such as a family member, friend, law enforcement officer, or forensic medical examiner is present, there is no privileged-confidential communication between the survivor and the rape crisis counselor.
- Provides accompaniment services to the forensic medical exam, to interviews involving the criminal justice system, to court proceedings; and, assists survivors in navigating these various systems.
- A victim of sexual assault has the right to have a victim advocate and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys, unless it is determined by law enforcement authority or the district attorney that the presence of the individual would be detrimental to the purpose of the interview. A victim advocate means a sexual assault victim counselor. This right does not pertain to the initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects. See **Appendix B** for exact statutory language for California Penal Code Section 679.04
- Participates in helping family members and friends to ensure that the survivor's needs are addressed.
- Solves problems appropriately, uses good judgment, and follows agency procedures.

Discuss Differences in the Roles of Rape Crisis Center Advocates, Victim/Witness Advocates, System-Based Advocates and Support Persons

- **System-based Advocates:**
 - Give victims voice within the system
 - Act as liaison, access to system personnel
 - Accompany to proceedings (e.g. adjudication, military judicial proceedings, court)
 - Have access to system info
 - Knowledgeable about system
 - Provide information to base agency -- not confidential
 - Often responsible for victims of all types of infractions or crimes
 - Generally, only available during system process
- **Community-based RCC Advocate:**
 - Services precede and extend beyond involvement with system
 - Maintains confidentiality
 - Communications are privileged
 - Relationships with system vary
 - Ongoing support for victim's family
 - Available 24/7
 - Specialists in sexual assault—take specific concerns into account
 - Accompany to proceedings within the system
 - Provide assistance with accessing support from governmental and social service organizations
- **Victim Witness Advocates:**
 - Generally available in each county
 - Generally, help victim/survivors apply for compensation
 - Generally, guide victims through the criminal justice system
 - Communication between victim and Victim Witness advocates are not privileged

Difference between a Victim Advocate and a Support Person

- A “sexual assault victim counselor,” as defined

in California Evidence Code Section 1035.2, means a person working in a Rape Crisis Center who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a Center that meets the criteria for an CAL OES-funded Rape Crisis Program grant pursuant to California Penal Code Section 13837.

- A support person means a friend or relative providing an emotionally supportive presence for the survivor.
- A Rape Crisis Center advocate has professional standing recognized in various state laws and has received specified training prescribed by statute. The victim advocate provides crisis intervention, information regarding criminal justice and forensic medical exam procedures, advocacy and emotional support.

Discuss boundary issues a counselor/advocate might encounter when working with other members of the multidisciplinary team

- Do not assist the forensic medical examiner with packaging or labeling evidence, holding rulers for photos, or completing parts of the medical exam form. To do so will prevent the advocate from attending to the survivor, create role confusion for the survivor, and jeopardize client confidentiality privilege.
- Do not assist the law enforcement officer in questioning the victim.
- Do not provide interpretation services for medical or criminal justice personnel, as their respective agencies are responsible for ensuring appropriate interpretation services.
- Other issues as defined locally.

Rape Crisis Center Counseling and Advocacy Processes — Vertical vs. Non-Vertical

- Vertical means the same advocate is responsible for responding to the survivor's needs from start to finish.
- Non-vertical means that there is a “hand-off” process between advocates who serve various functions, (e.g. hotline advocate, accompaniment advocate, counseling, court accompaniment, etc.).

7. Community Partners and Resources

Discuss Community Partners and Resources

- Multidisciplinary Interview Centers for children to avoid repetitive interviewing. Some Centers also interview developmentally disabled victims of all types of crimes.
- Campus rape prevention programs.
- Ethnic and cultural agencies, gay and lesbian centers, and other community agencies and departments.
- Domestic violence shelters and centers, county victim/witness assistance centers, social service agencies, and crime laboratory.

8. Privileged Communication within Collaborations

It is crucial for both SART and CCRT members to understand the limits of an advocate's ability to share confidential information with other team members. A survivor-centered response recognizes the importance of when, how, and what information is shared within the team and places paramount importance on the safety and confidentiality of the survivor. It is vital for team members to understand and respect that the community-based advocate is unable to share any information without the written consent of the survivor.²²

In instances of survivors who are incarcerated or detained, the sharing of information discussed between the advocate and survivor is not only a breach of privileged communication, but it may also jeopardize the survivor's safety.

22 Adapted from https://www.wcasa.org/file_open.php?id=203



Unit H – Medical

TOTAL HOURS REQUIRED: At least 2 Hours

The purpose of this section is to provide a broad framework for understanding the rights of the survivor, procedures, and the counselor/advocate's role when a survivor is receiving medical attention after being sexually assaulted. This will help advocates to respond to and support survivors during the forensic medical exam and immediate aftereffects of the sexual trauma.

NOTE: THIS SECTION REQUIRES THE USE OF A SUBJECT MATTER EXPERT, I.E. A SEXUAL ASSAULT NURSE EXAMINER (SANE) OR SEXUAL ASSAULT FORENSIC EXAMINER (SAFE).

Although this unit will be presented by a SANE or SAFE, Items 1-8 must still be covered. As the facilitator for this Unit, your role is to communicate to the presenter all the areas that need to be covered and to be prepared to present on items that are not covered by the Subject Matter Expert, provide clarification, answer questions and potentially explore the issues more thoroughly. For that reason, the information provided below is heavy on content.

Compassionate Care: An Overview of the Sexual Assault Clinical Forensic Medical Examination for Healthcare Providers DVD may be used as part of this section (and is exempt from the 10% audio/video limitation as part of the time of instruction requirement). It is available from the [California District Attorneys Association](#).

1. Rights of the Victim/Survivor

Discussion Prompt

Survivors have a legal right to have a victim advocate and a support person of their choosing present during the medical evidentiary exam (Pen. Code § 264.2) and at any interview by law enforcement authorities, deputy district attorneys, or defense attorneys (Pen. Code § 679.04(a)).

Emphasize the Following Points

- The survivor must be notified that they have the right to a counselor/advocate, and it is the responsibility of law enforcement or the hospital to notify the local Rape Crisis Center when they encounter a victim of a specified sex crime.
- The hospital is obligated to contact law enforcement whenever injuries have been inflicted upon a person in violation of a state penal code.

<p>California Penal Code 264.2 (b) (1)</p>	<p>The hospital may notify the local rape counseling center, when the victim of specified sex crimes is presented to the hospital for the medical or evidentiary physical examination, upon approval by the victim.</p>	
	<p>The law enforcement officer, or law enforcement agency, shall immediately notify the rape victim counseling center, whenever a victim of specified sex crimes is transported to a hospital or site for forensic medical evidentiary or physical examination.</p>	<p>Upon encountering the victim of a sex crime, law enforcement must immediately contact the local Rape Crisis Center so that they can provide a counselor/advocate for the survivor.</p>
<p>California Penal Code 264.2 (b) (2)</p>	<p>Prior to the commencement of any initial medical evidentiary or physical examination, a victim shall be notified orally or in writing by a medical provider that the victim has the right to have present a sexual assault counselor and at least one other support person of the victim's choosing.</p>	<p>The victim must be apprised of their right to have a counselor/advocate present before any medical exams take place.</p>
<p>California Penal Code 264.2 (b) (3)</p>	<p>The hospital may verify with the law enforcement officer, or law enforcement agency, whether the local rape victim counseling center has been notified, upon approval of the victim.</p>	<p>Hospital personnel may check with law enforcement to make sure that proper notification of the Rape Crisis Center has taken place.</p>
<p>California Penal Code 264.2 (b) (4)</p>	<p>A support person may be excluded from a medical evidentiary or physical examination if the medical provider or law enforcement officer determines that the presence of the individual is detrimental for the purpose of the examination.</p>	<p>The medical provider or law enforcement can exclude a support person from the examinations if they determine the support person will be a detriment to the exam. Counselor/advocates are not support persons for purposes of this Code.</p>
<p>California Penal Code Section 11160</p>	<p>Hospitals and health practitioners are required to report to the local law enforcement agency all cases in which medical care is sought where injuries have been inflicted upon any person in violation of any state penal law. The report must be made immediately by telephone and in writing within two working days of receiving the information. It must state the name of the injured person, if known, the current whereabouts, the character and extent of injuries, and the identity of the alleged perpetrator, if known.</p>	<p>Medical professionals are required to report to law enforcement any injuries that have been inflicted in violation of the law (as opposed to accidents, etc.)</p>

<p>California Penal Code Section 11162</p>	<p>The failure of a hospital or health practitioner to report cases where injuries have been inflicted in violation of a state penal law is punishable by a fine not to exceed \$1000, by imprisonment in the county jail for a period not to exceed six months, or both.</p>	<p>Crime-related injuries are required to be reported by healthcare providers.</p>
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Patient Referral Pathways

- Patient presents to hospital triage nurse/SAFE/SANE team with no report to law enforcement:
 - Perform medical screening examination.
 - Notify law enforcement agency in whose jurisdiction the crime occurred, pursuant to mandatory reporting law (Pen. Code § 11160).
 - Notify Rape Crisis Center to provide accompaniment services.
 - Notify SAFE/SANE team about potential forensic medical exam.
 - Notify family member or friend of patient, upon request of patient, if not already handled.
- Patient presents to hospital triage nurse/SAFE/SANE team with a law enforcement officer:
 - Perform medical screening examination.
 - If the Rape Crisis Center has not been notified by law enforcement, notify the Rape Crisis Center advocate to provide accompaniment services.
 - Notify SAFE/SANE team about a potential forensic medical exam.
 - Notify family member or friend, upon request of patient, if not already handled.
- Victim calls law enforcement agency:
 - Patrol officer responds and determines that a forensic exam is indicated. Patrol officer notifies the Rape Crisis Center and hospital triage nurse or SAFE/SANE team about the need for a sexual assault forensic medical exam.
 - Rape Crisis Center advocate is notified by the law enforcement officer or by hospital triage nurse or by SAFE/SANE team.
 - SAFE/SANE team is activated.
- Survivor contacts Rape Crisis Center:
 - Advocate provides crisis intervention.
 - Advocate discusses options with survivor about reporting the crime to a law enforcement agency and having a sexual assault forensic medical exam. If the survivor decides to notify law enforcement, advocate provides emotional support during the process.
 - If the survivor chooses to have a forensic medical exam or a medical exam only, the advocate provides accompaniment services or meets the survivor at the hospital or medical facility.
 - The role of the Rape Crisis Center advocate is a provision of continuity of care and/or wrap-around counseling and supportive services from the first contact to closure.

Intake Protocol for Conducting a Sexual Assault Forensic Exam: Important Changes

For many decades in California, law enforcement agencies have authorized sexual assault forensic medical examinations for investigative purposes and to reimburse hospitals and SAFE/SANE teams at public expense. As of January 1, 2012, California Pen. Code § 13823.95 was amended to affirm the intent of the federal Violence Against Women Act (VAWA), ensuring that self-identifying victims of sexual assault are entitled to receive a forensic medical examination at their request, regardless of their cooperation with law enforcement.

Now any self-identified sexual assault victim can request a sexual assault forensic medical examination, and there is no requirement to cooperate with law enforcement agencies in order to receive this examination. The goal of this federal statute is

to increase the numbers of sexual assault victims receiving medical/evidentiary examinations and to give victims the time and the opportunity to consider reporting the crime to law enforcement.

A Cal OES Informational Bulletin, issued January 2012, was developed jointly by the California Office of Emergency Services, California Police Chiefs Association, California State Sheriffs Association, California District Attorneys Association, California Coalition Against Sexual Assault, and the California Clinical Forensic Medical Training Center and posted on their respective websites with updates. The Informational Bulletin provides detailed directions about how to handle various issues related to exams in which the victim chooses not to engage or cooperate with the local law enforcement agency.

A new sexual assault forensic medical report form was developed in response to the VAWA mandate, called the Cal OES 2-924: Abbreviated Adult/Adolescent Sexual Assault Forensic Medical Report Form in which only perishable evidence is collected. See www.ccfmtc.org for the Informational Bulletin and for the Cal OES 2-924 form and instructions. As a practical matter, many law enforcement agencies have decided to continue requesting SAFE/SANE teams to use the Cal OES 2-923 form to avoid any real or perceived problems that could develop later.

Sexual Assault Victim Counselor Defined

Evidence Code section 1035.2 defines a sexual assault victim counselor as a person who is engaged in any office, hospital, institution, or center commonly known as a Rape Crisis Center for purposes of providing advice or assistance to sexual assault victims and who received a certificate evidencing completion of the 40-hour training program issued by a counseling center that meets the criteria for the award of a grant pursuant to Penal Code section 13837. Minimum training is specified in Penal Code section 13835.10. The person must be supervised by an individual who qualifies as a counselor pursuant to this statute or is a master's level clinician with one year of counseling experience, at least six months of which is in rape crisis counseling.

2. Best Practices and Cultural Considerations Related to Medical Procedures

Religious and Cultural Considerations

Sexual assault cuts across all cultures. Cultural issues may include age, gender, ethnicity, language, spiritual beliefs, sexual orientation, lifestyle, mental health, physical health, mobility, communication skills, chemical dependency, educational level, occupation, income level, daily independence, and/or level of disenfranchisement from society.

It is impossible for anyone to be aware of all cultural issues that may affect the sexual assault survivor. What is possible is to provide honest, compassionate supportive care focused on restoring an individual's equilibrium and level of function before the assault. For example, religious doctrines may prohibit a female from being disrobed in the presence of a male who is not her husband or forbid a genital examination by a male. Such practices are considered a further violation. In such instances, a female physical examiner should be made available for patients who request them.

Another example might be a Christian Scientist or another person whose beliefs mean they might not be able to receive some forms of medication and/or treatment. Age is also an important factor to consider when determining the proper method of administering a forensic interview, conducting a medical examination, and providing crisis intervention.

Maturational and physiological age is important to the physical examiner because injuries can appear different before and after puberty and/or menopause. Age may also affect level of independence and range of life experiences.

Educational level may mean a patient cannot read in any language, whether or not they can communicate orally. In this case, it is important to provide follow-up information that is accessible, such as providing information about medication and treatment to a trusted friend or family member.

The chemically dependent patient may exhibit signs of this dependency during the medical-legal exam, especially if they are at the facility for a number of hours. Mood swings might not indicate a patient's level of cooperation with authorities but his or her need to obtain the substance of addiction within a specific time.

Other Religious Considerations

- Some religious organizations accept medical treatment, but do not accept blood transfusion. They typically seek and accept medical care from among their members' nurses and doctors.
- Some religious organizations avoid medical treatment for illness, and instead tend to rely exclusively upon faith healing.
- Some cultures will not permit an intrusive examination that would violate a woman's hymen; and, others will not permit a woman to be disrobed in front of a man who is not her husband. In this situation, there can be no examination of the genitals by a man.

Prohibit the Use of Advocates as Language Interpreters

Advocates should not serve as language interpreters for law enforcement, the medical team, or any other entity that is interacting with the survivor throughout the duration of the case and beyond. Interpreting creates a dual role. It prevents advocates from attending to the survivor, creates role confusion for the survivor, and jeopardizes the client-confidentiality privilege. It places advocates into a role as an "extension" of law enforcement and the SAFE/ SANE team. In addition, this practice has the potential of creating liability issues for the hospital and the law enforcement agency investigating the case. Advocates do not have training as interpreters for medical and legal procedures.

Native American Survivors

Know services offered in your area that are Native-specific. Perhaps the local Native American health clinic or the local tribe offers services. Know whether those services are provided to Native Americans who are not members of the local tribe. However, also be aware that many California tribes are small, and that the survivor may not want to use tribal services for fear her family and friends will see or hear about her trauma before she is ready to disclose it to them. Therefore, referrals to other agencies may be appropriate.

Immigrant Survivors

Immigrant women who are survivors of sexual violence face a number of fears regarding accessing the justice system, medical care, counseling, and other supportive services. These fears relate to concerns about confidentiality, eligibility for services, and deportation if reported by law enforcement, health, or social service providers or the perpetrator of the assault.

3. Forensic Medical Examination (Full and Abbreviated) and Evidence Collection

The purpose of a sexual assault forensic medical examination is to obtain a patient's history to guide the examination, conduct a complete physical examination, collect and preserve evidence, photograph injuries, document evidentiary exam findings on the required state form(s), and package and submit evidence in the Sexual Assault Evidence Collection Kit, also called the "rape kit." Evidence kits are provided to hospitals by the crime laboratories.

Role of the SAFE or SANE

- The roles of the sexual assault forensic medical examiners (SAFE or SANE) are to:
 - attend to the medical needs of the patient; and
 - perform a quality sexual assault forensic medical examination.
- The roles of the SAFE/SANE on the SART are to:
 - participate as a team member;
 - actively participate in solving systems issues, team education, and community relations related to the SART team; and
 - ensure up-to-date knowledge and skills regarding sexual assault forensic medical exam performance and interpretation of findings.

The basic elements of a sexual assault and child sexual abuse forensic medical examination are defined in California Penal Code Section 13823.5, which authorized the development of standardized forms and a protocol. The forms include detailed procedures on how to conduct the examination. The *California State Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims* contains guidelines and recommended methods for conducting the exam. Copies of the forms, instructions, and protocol can be obtained from www.caloes.ca.gov. The use of the forms for adults, adolescents and children is listed below.

Timeliness: Immediately Upon Arrival or Within One Hour

Patients must be examined without delay to assess medical status and to minimize the loss or deterioration of evidence. The standard of practice in California for acute sexual assault or child sexual abuse examinations is to start the exam immediately upon the patient's arrival at the hospital, or within one hour (California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims). Circumstances such as medical stability, incapacity to give consent, intoxication, the emotional needs of the patient, and other variables may impact the exam start time. If this is the case, document the reason for delay in the patient record so that quality assurance reviews are accurate regarding response times.

Confidentiality of Forensic Medical Records

A forensic medical report is subject to the confidentiality requirements of the Medical Information Act (Civil Code §§ 56 et seq.), the Physician-Patient Privilege (Evid. Code 36 §§ 990 et seq.), Penal Code section 13823.5(c), and the Official Information Privilege (Evid. Code § 1040). It can only be released to those involved in the investigation and prosecution of the case: a law enforcement officer, district attorney, city attorney, crime laboratory, investigating social service agency, county licensing agency, or coroner. Records may be released to the defense counsel only through discovery of documents in the possession of a prosecuting agency or after the appropriate court process (i.e., judicial review and a court order). Penal Code section 13823.5(c) addresses the management of the forensic medical report forms as follows: "The forms shall be subject to the same principles of confidentiality applicable to other medical records."

Key Terms for Sexual Assault and Child Sexual Abuse Examinations

Acute: Less than 120 hours (5 days) have passed since the incident (<120 hours)

Non-acute: More than 120 hours (5 days) have passed since the incident (>120 hours)

** These terms are used to describe time frames, not a rigid standard; or, to suggest that after 120 hours a complete exam should not be done. Some counties have established seven (7) days or 168 hours as the time frame for performing acute forensic exams. Contact www.ccfmtc.org for more information.*

California Penal Code 11160

Requires healthcare providers to make an immediate telephone report and submit a written report to a law enforcement agency if a person presents to the medical provider as a victim of assaultive conduct, including sexual assault. If the patient discloses a sexual assault, and the health care provider knows or reasonable suspects the patient is a victim of a sexual assault. This is a requirement of healthcare providers which does not obligate a sexual assault victim to cooperate with law enforcement.

Federal VAWA and California Statute Regarding Victim Cooperation with Law Enforcement

The federal Violence Against Women Act (VAWA) includes the following provisions regarding self-identifying victims of sexual assault:

- The right to a Sexual Assault Forensic Medical Examination at no cost to the victim/patient;
- Provision of a Sexual Assault Forensic Medical Examination without any requirement or obligation to cooperate with law enforcement or to participate in criminal justice proceedings.

California law was amended and brought into compliance to clearly articulate the intent of VAWA effective January 1, 2012. (Pen. Code § 13823.95(b).)

Abbreviated Adult/Adolescent Sexual Assault Examination Forensic Medical Report

As a result of the 2012 amendments to California law, a new sexual assault forensic medical examination form, Cal OES 2-924, was developed for

this purpose of defining what perishable evidence needs to be collected, documented and preserved, and packaged in the sexual assault evidence kit used by the local law enforcement jurisdiction. The abbreviated examination form is only intended for use in instances in which the victim has indicated a lack of desire or uncertainty regarding cooperating with law enforcement or participating in the Criminal Justice process.

Evidence Collection Considerations

- DNA, used to identify or rule out suspects, is collected through the various evidence collection procedures.
- All clothing and shoes are collected. New clothing and footwear should be brought to the hospital by relatives, friends, or advocate. Many medical evidentiary sites and or Rape Crisis Centers maintain a collection of replacement clothes and toiletries on hand.
- Chain of Custody refers to having all healthcare providers handling evidence sign off on specialized logs to record the transfer of evidence from person to person. Failure to document chain of custody creates the question of whether or not the evidence was contaminated.
- Evidence collection, preservation, packaging, and labeling of evidence; use of ultraviolet light (Wood's Lamp) to identify foreign materials; and photographing injuries are the key factors which distinguish a medical examination from a sexual assault forensic medical examination. Physical examinations, without evidence collection, are documented in the standard records prescribed by the hospital.

Patient Care Management Issues

In most circumstances, the law enforcement officer, who brings the suspect to the hospital notifies the hospital staff in advance and authorizes the exam pursuant to the recommended state protocol for suspect exams. If the perpetrator is brought to the same hospital, ensure that hospital staff is aware of this matter if the law enforcement officer has not already done so. Check to ensure that the victim and perpetrator are not placed in the same area and that special arrangements are made to ensure patient safety.

4. Consent for a Forensic Medical Examination

Patients have the right to refuse an examination for the purpose of collecting evidence. Consent for evidence collection, once given, can be withdrawn at any time during the examination. Patients have the right to refuse the collection of reference specimens, such as pubic and head hair; blood and/or saliva for typing; and blood and/or urine for toxicology.

There are four separate consent items on the Cal OES 2-923 Sexual Assault Forensic Medical Report

1. consent for the examination at public expense and release of the forensic medical report to law enforcement authorities;
2. consent for photographing injuries including the genital area;
3. general consent for a forensic medical examination; and
4. collection of de-identified exam data for health and forensic purposes to persons with a valid educational or scientific interest for demographic and/or epidemiological studies.

Minors: Consent Issues

- Minors 12 years of age and older may give consent to the provision of medical care related to the diagnosis or treatment of a sexual assault and the collection of evidence (Fam. Code §§ 6927 and 6928). The reverse is also true; they have the right to refuse consent.
- Minors 12 years of age and older may give consent to the provision of medical care related to the prevention or treatment of pregnancy (Fam. Code § 6925).
- Minors 12 years of age and older may give consent to the provision of medical care related to the diagnosis or treatment of sexually transmitted diseases (Fam. Code § 6926).
- Consent given by a minor is not subject to disaffirmance because of minority (Fam. Code § 6921). This means that a minor's rights cannot be taken away by an adult.
- Family Code section 6500 defines a minor as an individual who is under 18 years of age.

Minors: Non-Consent Issues

- Non-consent by minors: Since California law clearly establishes a minor's right to consent, the reverse is also true; they have the right to refuse consent. Questions regarding minors' rights should be directed to the district attorney's office or to hospital counsel.
- Non-consent by children under age 12: The conventional and collective wisdom of child abuse experts is to never force a sexual abuse forensic medical examination upon a child. This can have the effect of terrorizing the child and rekindling the memories of victimization. It can also create fear of healthcare providers.

For a non-acute examination, reschedule the appointment and use the first visit to acquaint the child with the surroundings and the personnel. For an acute exam or a non-acute exam when there is suspicion of a foreign body in the vagina or other medical concerns, consider sedation and follow the established sedation protocol. Never hold a child down for an examination and never allow anyone else to hold a child down for an examination.

Incapacity to Give Consent for a Sexual Assault Forensic Medical Examination

Patients may be considered temporarily incompetent for giving consent because of incapacitating injuries, sedation, alcohol or drug intoxication, hallucinations, delusions, mental retardation, acute organic brain syndrome from any cause, or permanently incompetent because of irreversible dementia.

For purposes of consent for medical treatment, competency is defined as the ability to understand the nature and consequences of the illness, the proposed treatment, alternatives to treatment, and the ability to make a reasoned decision in this regard.

For medical purposes, competency is required at the time consent is given. If consent or refusal was given by the patient during a period of competency, then that consent or refusal remains valid even if the patient later lapses into incompetency.

If a patient is assessed to be incompetent, the basis for this must be documented in the patient's chart. If the patient is not competent to give informed consent, then another authorized party must approve

the proposed treatment on the patient's behalf. In the case of sexual assault, and in the absence of state law on this subject, it is recommended that specific procedures be developed in conjunction with law enforcement agencies, the district attorney's office, and hospital counsel.

Without a protocol, obtaining sexual assault forensic medical evidence without appropriate consent procedures could subject an examiner or a hospital to serious legal liability. Some strong views have been expressed on this issue, particularly involving a temporary incapacity to give consent.²³

5. Payment of Expenses

Forensic Medical Sexual Assault Examinations

California state law requires law enforcement agencies to pay for sexual assault forensic medical examinations. Penal Code section 13823.95 states that no costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the examination of a victim of a sexual assault, as described in the protocol developed pursuant to sections 13823.5 and 13823.7 for the purposes of gathering evidence for possible prosecution, shall be charged directly or indirectly to the victim of the assault. These costs shall be treated as local costs and charged to the local governmental agency in whose jurisdiction the alleged offense was committed.

Bills for these costs shall be submitted to the law enforcement agency in the jurisdiction in which the alleged offense was committed and which requests the examination. The phrase "indirectly charged" is defined in the California Medical Protocol for Examination of Sexual Assault and Child Sexual Assault Victims as a third-party payer, such as private or public insurance (e.g., Medi-Cal or Medicaid).²⁴

Medical Treatment

- This portion of the expenses is paid for by the patient's public (Medi-Cal or MediCaid) or private health insurance. The Victim Compensation Program can also reimburse out-of-pocket medical expenses.

²³ California Sexual Assault Response Team (SART) Manual, Appendix D, Pgs. 179-181

²⁴ California Sexual Assault Response Team (SART) Manual, Pg. 71

Prescriptions

- Treatment for sexually transmitted disease and pregnancy prevention are often provided by the hospital facility pursuant to the California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims.
- Other types of prescriptions are paid by the patient's insurance or reimbursed by the Victim Compensation Program.

Follow Up Medical Treatment

Follow up medical treatment for injuries, wound healing, or sexually transmitted disease is paid for by the public or private insurance.

California Victim Compensation Program (CalVCP)

Eligibility for Reimbursement of Expenses: A California resident or non-resident injured in California who suffers physical injury, threat of physical injury, or death. Victims of sexual assault are presumed to have suffered physical injury.

Losses Covered

Medical and dental expenses, mental health treatment or counseling, physical therapy expenses, funeral and burial expenses, wage or income loss, loss of support, job retraining expenses for a disabled victim, home or vehicle modifications for a disabled victim, home security improvements, moving/relocation expenses, crime scene clean-up, medically necessary equipment such as a wheelchair, insurance co-payments, loss of support for dependents when a victim is killed or disabled because of a crime, childcare services when a caregiver is killed or disabled because of a crime, and more.

Consult the CalVCP website for further description of benefits at <https://victims.ca.gov> or www.victim-compensation.ca.gov. The website also has links to "Find a Therapist" and "Find a Psychologist."²⁵

²⁵ California Sexual Assault Response Team (SART) Manual, Pg. 98

6. Survivors' Health Concerns

Physical Symptoms and Health Problems

Physical health symptoms and problems must be included among the reactions to the crisis of rape. Because many rapes result in physical injury, pain is often part of the experience of survivors. This may include, for example, pain from a wound, pelvic pain, rectal pain or bleeding, stomach pain, or pain during urination. This physical pain often causes significant emotional distress, because in addition to its physical dimension, it functions as a trauma reminder.

Many stress-related illnesses and physical symptoms may be experienced by survivors, including headaches, nausea, or gastrointestinal problems. Survivors need to take care of their health and seek medical care when appropriate in order to limit the effects of the assault. They need to resist the impulse to avoid medical examinations; although these may sometimes act as trauma reminders, they are crucial to self-care. Often, sexual assault counseling can improve physical symptoms and health.²⁶

Adult Survivors of Childhood Sexual Abuse

Sexual abuse during childhood is also related to a wide range of physical health problems in adults. Women who were sexually abused as girls are more likely than other women to have problems with chronic pain, including pelvic pain, fibromyalgia (a disorder characterized by chronic muscle pain in many parts of the body), and headaches. Additionally, childhood sexual abuse is thought to be related to back pain and facial pain.

Sexual abuse is also related to later gynecologic problems such as painful or irregular menstrual periods, premenstrual disturbances, sexually transmitted disease, pelvic inflammatory disease, multiple yeast infections, and early hysterectomy or other gynecologic surgery.

A third group of adult health problems related to child sexual abuse is digestive disorders, such as irritable bowel syndrome, heartburn, constipation, diarrhea, and chronic abdominal pain.

As well as being at increased risk for specific health problems, women sexually abused as children are at increased risk for having multiple physical symptoms.

In summary, adults who were sexually abused during childhood are at greater risk than others for depression, suicide, PTSD, eating disorders, anxiety disorders, substance abuse or dependence, difficulties with acceptance of sexual orientation, dissociation, and emotional distress in general. Child sexual abuse is also related to physical health problems, including chronic pain disorders, gynecologic problems, digestive disorders, and multiple physical symptoms.²⁷

Posttraumatic Stress Disorder

Ninety-four percent of rape survivors have most of the symptoms of Posttraumatic Stress Disorder (PTSD) in the first week or two following their assault (although they could not be diagnosed with PTSD because symptoms must persist for more than one month to meet the diagnostic criteria). Nearly half have PTSD three and six months after the assault. Rape produces more severe and persistent problems for survivors than nonsexual assault. But despite these high rates of distress, there is evidence that, for many survivors, long-term problems can be prevented if counseling is provided in the first weeks and months following a rape.

The survivor is not going crazy. What is happening to her is part of a set of common reactions and problems that relate to traumatization. This is not a sign of personal weakness. Many psychologically and physically healthy people become depressed and experience symptoms of posttraumatic stress following rape or other types of sexual assault.²⁸

²⁶ CALCASA, Support for Survivors, Pgs. 181-182

²⁷ CALCASA, Support for Survivors, Pgs. 84-85

²⁸ CALCASA, Support for Survivors, Pg. 183

Rape Trauma Syndrome

Sexual assault is an extremely traumatic experience, leaving survivors overwhelmed with a mixture of emotional, psychological and physical distress. Rape Trauma Syndrome is the term for the pattern of symptoms that a survivor goes through as they progress through their healing and recovery. (This is not a clinical term, but a description of common reactions to sexual assault.) Every individual responds differently to a sexual assault; there is no wrong symptom, or experience, if you have been assaulted.²⁹

Pregnancy, Sexually Transmitted Diseases (STD), Prevention and Treatment

Address specific health care concerns such as the risk of pregnancy and exposure to sexually transmitted diseases, arrange for any preventative medication, and arrange for any needed follow-up care.³⁰

HIV/AIDS: Counseling by medical personnel shall be provided to the survivor to give her information about the extent to which she is at risk of contracting HIV and the benefits and limitations of the current tests for HIV and to give referrals to appropriate health care and support services.³¹

See [California Protocol for Examination of Sexual Assault and Child Sexual Assault Victims](#) Chapter XXI, Possibility of Pregnancy and Chapter XXII, Prophylaxis Against Sexually Transmitted Disease.

7. Notification and Agency Response Procedures

- The law enforcement officer, or law enforcement agency, shall immediately notify the rape victim-counseling center, whenever a victim of specified sex crimes is transported to a hospital for any medical evidentiary or physical examination.
- A 2014 amendment to CA PC 264.2 allows the hospital to notify the local rape victim counseling center when the victim is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.
- Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, a victim shall be notified orally or in writing by the medical provider that the victim has the right to have present a sexual assault counselor and at least one other support person of the victim's choosing. The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

Review the Rape Crisis Center's response procedures.

²⁹ <https://www.dvsac.org/rape-trauma-syndrome/>

³⁰ CALCASA, Support for Survivors, Pg. 318

³¹ CALCASA, Support for Survivors, Pg. 333

8. Role of the Counselor/Advocate During Medical/Forensic Examinations

Important Difference Between the Role of the Sexual Assault Forensic Medical Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) and Role of Victim Advocate

SAFE/SANE examiners are trained healthcare professionals with additional training in how to conduct adult/adolescent sexual assault forensic medical exams and/or child sexual abuse forensic medical exams or both. SAFE is the acronym for sexual assault forensic examiner, which includes physicians, nurse practitioners, physician assistants, and nurses serving on the same team. SANE is the acronym for sexual assault nurse examiners, and these teams are comprised of registered nurses. SAFE is the recommended term.

Sexual assault forensic medical examiners are independent objective fact finders. **It is essential that examiners not take on the role of victim advocate.** Doing so destroys the important role of providing an objective forensic medical evaluation and interpretation of findings. Dueling medical experts is always a possibility but crossing the boundary into patient advocacy away from forensic science will increase the probability.

Advocacy is the role of the Rape Crisis Center advocate. Similarly, it is essential that the advocate not be requested to participate in any way (e.g., packaging evidence, holding the ruler for the photographer, and so forth) during the performance of the forensic medical exam. To do so jeopardizes the advocate's confidentiality privilege. It also has the potential to raise questions about evidence handling and packaging procedures because advocates are not trained forensic medical examiners. It is, however, appropriate for the advocate to be in the exam room to provide emotional support for the survivor.

General Role of the Rape Crisis Center Counselor/Advocate

The rape crisis counselor/advocate's role is to provide emotional support, information, and advocacy on behalf of the victim and her/his significant others. Services are provided according to the mandated standards set forth by the California Office of Emergency Services. The advocate also acts as a supportive team member.

- Per state law, law enforcement is required to notify the Rape Crisis Center. New state law requires hospital and/or SAFE team to ask the patient's permission to notify the Rape Crisis Center if they are not already there or en route.
- Initial contact requesting rape crisis services may also come from triage nurse or sexual assault forensic medical examiner. Identify yourself and give an estimated time of arrival. If requested, make yourself available to speak directly to the victim or significant others by phone.
- Identify location of and any special needs the victim and accompanying party may have. Attempt to meet whatever special needs they may have.
- Upon arrival, introduce yourself to all SART members and the victim and her/his significant others and explain your role, if it has not already been explained by the other team members.
- Provide emotional support and information to the victim while the officer/deputy conducts the interview. Support the officer/deputy's need to ask specific and difficult questions.
- Per state and federal law, a sexual assault victim may request a sexual assault forensic medical exam without cooperating or engaging with law enforcement.
- Before the medical examination, inform the victim that you and/or a significant other can be with her during the exam to provide emotional support. If appropriate, explain what the sexual assault forensic medical exam entails, and assist the examiner and officer in answering any questions the victim might have. The SAFE/SANE examiner most commonly interviews and describes exam procedures to the patient.

- Give the victim the SART information packet, extra clothing, and address any additional concerns the victim may have.
- Assure the victim and his/her significant others that they may call the rape crisis hotline anytime, 24 hours a day for support and information. Arrange for telephone or in-person contact. Provide on-going support to the victim and her/his significant others after the initial contact as appropriate.³²
- Follow agency policy regarding bringing a change of clothing for the survivor. Sometimes family or friends fill this need; or, some centers provide sweat suits for survivors and bring them to the hospital.

Discuss Survivor Transportation after Forensic Medical Exam

Discuss the Rape Crisis Centers policies and procedures for transporting survivors to their home or to the residence of family or a friend. Options include: family member or friend provides transportation; Rape Crisis Center advocate provides transportation, if the center has a liability policy for advocates; patrol officer waits on stand-by or another patrol officer is called to provide transportation; and cab voucher.

Discuss boundary issues with Professionals from Other Disciplines

These include, but are not limited to:

- Do not assist the forensic medical examiner with packaging or labeling evidence or holding rulers for photos.
- Do not assist the law enforcement officer in questioning the victim.
- Do not provide translation services for medical or criminal justice personnel, as their respective agencies are responsible for ensuring appropriate translation services.
- Other issues as defined by the Rape Crisis Center.

³² California Sexual Assault Response Team (SART) Manual, Pgs. 166-167



Unit I – Law Enforcement

TOTAL REQUIRED HOURS: At least 2 hours

Law enforcement is an essential SART partner. Law enforcement's mission is to protect and serve the public, investigate crimes, identify and apprehend perpetrators, and prepare investigative reports. In California, there are more than 400 city police departments, 58 county sheriff's departments, 58 county district attorney's offices, and several city attorney's offices. Many have specialized sexual assault units³³

NOTE: THIS UNIT REQUIRES A SUBJECT MATTER EXPERT FROM YOUR LOCAL LAW ENFORCEMENT AGENCY.

Although this unit will be presented by someone from your local law enforcement agency, sections 1 through 7 must still be covered. As the facilitator for this unit, your role is to communicate to the law enforcement presenter all the areas that need to be covered, and to be prepared to present on items that are not covered by the Subject Matter Expert, as well as provide clarification, answer questions, and potentially explore the issues more thoroughly. For that reason, the information provided below is heavy on content.

1. Rights of the Victim/Survivor

Victim Rights Requirements in State Law

- **Law enforcement officers shall:**
 - Apprise the victim of his or her legal right to have a victim advocate and a support person at any interview by law enforcement officers, district attorneys, or defense attorneys. Note: The initial investigation by law enforcement to determine whether a crime has been committed and the identifying of the suspects shall not constitute a law enforcement interview. (Pen. Code § 679.04(a).)
- **Additional Considerations:**
 - Staff from the Victim Witness Assistance Program can fulfill this role, but do not qualify for client confidentiality unless they are employed by a nonprofit Center that meets the training criteria. Communications between Victim Witness Advocates and victim/survivors are not privileged.
 - If a third party such as a friend or family member is present at an interview or meeting, the survivor's confidentiality can be breached by this person and there are no laws governing this person's conduct.
 - Apprise the victim of her or his legal right to have her or his name kept confidential. (Gov. Code § 6254.)
 - Immediately notify the local rape victim counseling center whenever a victim of any alleged violation of sexual assault is transported to a hospital or exam facility for any medical evidentiary or physical examination. (Pen. Code §§ 264.2 and 264(b)(1).)
 - Notify the sexual assault victim of the right to have a sexual assault victim counselor and at least one other support person of the victim's choosing present at any medical evidentiary or physical examination. (Pen. Code § 264(b)(1).)

³³ California Sexual Assault Response Team (SART) Manual, Third Edition. January, 2016. Published by the California Clinical Forensic Medical Training Center (www.ccfmtc.org).

- **Confidentiality**

- Survivors of sexual assault have the right to confidentiality and this right must be protected by the Rape Crisis Center, law enforcement agency, hospital, forensic medical examination team, District Attorney's Office, and the media (e.g. newspapers, television, and radio).
- If the case goes to trial, the victim's name becomes part of the public record of the trial; however, the media does not include the victim's name in accounts of publicized trials. Occasionally and rarely, the victim's name is included in a newspaper article; this is usually due to extraordinary circumstances.
- If a third party such as a friend or family member is present at an interview or meeting, the survivor's confidentiality can be breached by this person and there are no laws governing this person's conduct.
- If a third party includes a sexual assault forensic medical examiner or a law enforcement officer, there is no confidential communication privilege between the survivor and the rape crisis counselor.

Federal VAWA and California Statute Regarding Victim Cooperation with Law Enforcement

The federal Violence Against Women Act (VAWA) legislation eliminates requirements for victims to cooperate with law enforcement agencies as a condition of receiving a sexual assault forensic medical examination at public expense. California law was amended and brought into compliance with VAWA effective January 1, 2012. (Pen. Code § 13823.95(b).)

In order to effectively support a survivor through the criminal justice process, a counselor/advocate must be familiar with sexual assault laws.

2. Sexual Assault Laws

Notification of Rape Crisis Center by Law Enforcement Agency

California Penal Code Section 264.2. requires the law enforcement officer or agency to immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The victim shall have the right to have a sexual assault victim counselor, as defined in Section 1035.2 of the California Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.

California Sexual Assault Criminal Laws

Use Appendix D to provide a handout of California Penal Code Sections: 243.4, 261-269, 281 – 289.6. and review with counselor/advocates.

Definition of Sexual Penetration

California Penal Code Section 263 states that "any sexual penetration, however slight, is sufficient to complete the crime."

Re-traumatization is a valid concern when reporting to law enforcement. If a survivor decides to report, the potential for re-traumatization can be reduced if the counselor/advocate is able to explain the process and procedures to the survivor.

3. Local Law Enforcement Agency Procedures

Notification Procedures

Review the following sample chart of a call-out process when law enforcement first receives the call from the survivor.

Jurisdictional Issues

Jurisdictional issues are important to understand because where the crime began and occurred determines which law enforcement agency has the authority to investigate the case. Establishing working relationships with all possible investigative authorities in the region is essential to smooth operations of a SART.

Sexual Assault in State Buildings, Parks, and Lands

If a sexual assault is committed in a state park, the investigation is the responsibility of the state park ranger. If a sexual assault is committed in a state building or state parking lot, the California Highway Patrol has legal jurisdiction.

The California Highway Patrol and the state park ranger have the option of investigating the crime, or contacting the local city police department or sheriff's department. This is done in recognition of the experience these agencies have with sexual assault investigations. In these cases, victims are typically brought to the designated hospital in the county jurisdiction for the forensic medical examination.

Sexual Assault in Federal Parks and Lands

The National Park Service has legal jurisdiction over crimes committed on federal parks and lands. The park ranger will turn the case over to the Bureau of Land Management Criminal Investigations Unit. Most often, they contact the sheriff's department in the county where the national park or lands are located to conduct the sexual assault criminal investigation. Under some circumstances, the Federal Bureau of Investigation (FBI) may be called upon for the investigation. Victims are typically brought to the designated hospital for that California County nearest the national park or wilderness area.

Sexual Assault on Native American Lands

Criminal offenses committed on Native American lands are investigated by the local law enforcement agency having jurisdiction. (Public Law 280.) This is usually the sheriff's department. Tribal police officers are not usually sworn peace officers. Victims are typically brought to the designated hospital for that California County nearest the reservation lands.

Sexual Assault on Military Bases

The military police have legal jurisdiction over crimes committed on a military base. If the assailant is a member of the military, the crime is investigated and prosecuted in the military courts. If the suspect is non-military and the assault took place on a military base, the suspect is turned over to the local authorities.

Some military bases have a hospital, along with trained personnel to perform sexual assault forensic medical exams. Other bases make arrangements with the designated hospital in the California County nearest to the military base for the performance of sexual assault forensic medical examinations. Some military bases have arrangements with local Rape Crisis Centers to provide counseling services for victims. Other bases use their own counseling centers.

As a result of increased attention and focus by the U.S. Congress and the President, sexual assault in the military is recognized as a serious problem. Refer to the Department of Defense Annual Report on Sexual Assault in the Military for updates.

Sexual Assault on University of California, State University, Community College, and Private College Campuses

The University of California and State University police have jurisdiction over their campuses. There are 10 campuses in the University of California system, 23 campuses in the California State University system, and more than 100 public community colleges. The University of California and State University campus police departments have the option of investigating the case or calling upon the local city police department or the county sheriff's department (if the university is not located within a city jurisdiction).

Private colleges and community colleges (public and private) do not have police departments and refer the case to the local city police department or county sheriff's department.

Other Jurisdictional Issues

There are many other possibilities involving jurisdictional issues (e.g., cruise ships at sea is FBI jurisdiction, sexual assault of U.S. citizens in adjacent countries, and so forth). Consult the local district attorney's office for information regarding these questions.

California state law requires law enforcement agencies to pay for sexual assault forensic medical examinations. Penal Code section 13823.95 states that no costs incurred by a qualified health care professional, hospital, or other emergency medical

facility for the examination of a victim of a sexual assault, as described in the protocol developed pursuant to sections 13823.5 and 13823.7 for the purposes of gathering evidence for possible prosecution, shall be charged directly or indirectly to the victim of the assault.”

Although a common misconception, this does not mean that law enforcement agencies authorize forensic medical exams. It may be more appropriate to understand that law enforcement requests and pays for the forensic medical exams.

4. Factors Affecting Decision to Authorize a Forensic Medical Examination, Investigation and/or an Arrest

Forensic Medical Examination

- **Law Enforcement Does Not “Authorize” Examination**
 - Some of the misunderstanding in this area stems from the history of law enforcement authorization for medical forensic examinations in some states like California. Many professionals continue to refer to “law enforcement authorization” when talking about a medical forensic examination with a sexual assault victim. However, this changed in the wake of the Violence Against Women Act (VAWA) provisions referred to as forensic compliance, which requires that all victims of sexual assault are provided a medical forensic exam free of charge and regardless of their participation in the criminal justice process.
 - With this legislation in place, the terminology of “authorization” is simply no longer appropriate. The reality is that law enforcement agencies are not in the business of “authorizing” exams anymore—even in states like California, where law enforcement requests and pays for forensic examinations. Sexual assault victims can—and do—consent to the examination without law enforcement being involved at the time of the examination.
- **Law Enforcement Can Facilitate Examination**
 - At the same time, law enforcement is often the first point of contact with sexual victims, so responding officers must be familiar with the medical forensic examination and how to best facilitate these examinations for victims. This should include transportation to and from the examination facility, as well as briefing the forensic examiner before and afterward. The responding officer or investigator must also communicate with the forensic examiner to understand what additional information was learned during the examination and how the information, documentation, and examination findings relate to the preliminary investigation as well as identification of the crime scene(s) and the collection of evidence.
- **Paperwork Still Reflects Authorization**
 - While law enforcement no longer authorizes medical forensic examinations, the paperwork and protocols do not always reflect this change. This problem is illustrated with the form used in California by health care providers to document a sexual assault medical forensic exam (CA OES 923). On the first page of the form, there is a section titled, “Reporting and Authorization.” In that section, there is a box for officers to indicate that: “I Request a Forensic Medical Examination for Suspected Sexual Assault at the Public’s Expense.” Then there is a space for officers to fill in their name, ID number, phone number, and case number, as well as the date and time of their signature. It is certainly understandable that law enforcement professionals, forensic examiners, and others would see this as “authorization” required before the examination is conducted.
 - Even in states that do not have a standardized form for documenting the medical forensic examination, similar issues might arise in terms of a protocol or forensic examination form that is being used locally. Therefore, it is worth clarifying that law enforcement authorization is not legally required in California—nor is it in any state, territory, or tribe—as a result of the Violence Against Women Act. Victims can

consent to a medical forensic examination to be conducted by health care providers without law enforcement being involved at the time of the examination. Any legal responsibilities the health care provider may have for mandated reporting can be met at a later time by submitting the appropriate form (e.g., Suspicious Injury Form).³⁴

Investigation and/or Arrest

Evidence issues, victim's credibility and unable to prove guilt are some reasons cited that law enforcement does not pursue an investigation and/or arrest.

The decision to report a sexual assault to law enforcement belongs to the survivor. Having information about what happens during and after a report can help a survivor make more informed decisions about reporting and feel more prepared if they decide to report.

5. Investigation Procedures

Law enforcement officers evaluate sexual assault cases in the context of the criminal laws contained in the Penal Code. Their objective is to reassure the victim that she is safe, obtain a factual and comprehensive history of the assault, collect and preserve evidence, conduct investigations, prepare reports, and submit investigative reports to the district attorney's office. The district attorney's office makes the determination about whether to file criminal charges on the case (more on this in Unit J: Legal and Court).

The investigative objectives are to:

- determine if a sexual assault occurred;
- determine location and jurisdiction of the assault;
- determine who is responsible;
- collect and preserve evidence;
- identify and apprehend suspects;
- arrest where probable cause exists;
- assist the district attorney in the prosecution of cases; and
- provide testimony and evidence in court.

³⁴ <http://www.evawintl.org/PAGEID11/Forensic-Compliance/FAQs/Law-Enforcement>

Although specific procedures will vary based on individual agencies and jurisdictions, the following are the basic elements of a law enforcement investigation.³⁵

Phase One: Immediate Intervention

- **Responsibilities of the patrol officers as first responders are to:**
 - ensure the victim's safety;
 - evaluate the need for emergency medical care;
 - evaluate the need for additional units and supervisor;
 - check for possible suspects and consider the need for a crime broadcast;
 - locate and identify witnesses, including friends or family the victim might have called or contacted immediately after the assault; conduct a brief preliminary interview of the victim to determine whether and what crimes may have occurred, the location where the crime occurred, and the exact time or time-frame of the occurrence;
 - arrange for a sexual assault forensic medical examination;
 - notify hospital triage nurse or SAFE/SANE team (per local protocol);
 - evaluate the need for response from investigations unit (detectives);
 - evaluate the need for crime scene processing and arrange for the proper personnel to respond (i.e., photos, criminalist, and fingerprints);
 - secure the crime scene, if indicated;
 - document, collect, and preserve all crime scene related evidence at the earliest appropriate time (i.e., victim's clothing, bedding, video evidence, cellphone text messages, etc.);
 - collect the first available urine sample if drug-facilitated sexual assault is suspected

³⁵ Taken from the California Sexual Assault Response Team (SART) Manual, Third Edition. January, 2016. Published by the California Clinical Forensic Medical Training Center (www.ccfmtc.org), and Sexual Assault Training Standards: A Trainer's Guide.

(if the victim must urinate prior to arrival at the hospital or exam facility; some jurisdiction's patrol cars carry urine cups for this purpose);

- transport the victim to the hospital or exam facility or permit the victim to be transported by family or a friend;
- request a private waiting area for sexual assault victim, if one is not designated;
- stand-by during the forensic medical exam or return to duty (per local protocol);
- ensure transportation for the victim home or to another residence after the completion of the exam (per local protocol); and
- receive the sexual assault evidence kit and deliver it to the crime laboratory (per local protocol) or ensure that evidence is placed in locked storage at the exam facility (preserving the chain of custody of evidence) for later pickup by a patrol officer or the crime laboratory evidence technician. Per local protocol, patrol officer may take other evidence (i.e., clothing, bags, shoes) to the law enforcement agency evidence storage facility.
- **The initial handling procedures for suspects, if immediately located, include:**
 - separating suspects when there are more than one;
 - not permitting suspects into the crime scene area;
 - preventing communications between all involved parties;
 - informing persons of their rights, if questions are being asked about the crime and they are in custody;
 - recording statements; and
 - photographing suspects' physical appearance, physical injury, torn or stained clothing.
 - Follow local protocol for sexual assault suspect forensic medical examinations:
 - Know how to access the SAFE/ SANE team or other contracted provider for suspect exams.
 - Ensure that suspects are examined at locations separate from the victims, or that the exam facility is large enough to prevent

them from seeing and having contact with one another.

- Ensure that victim and suspect exams are performed by different examiners, if your jurisdiction has sufficient resources and personnel.
- Follow local protocol for suspects who voluntarily agree to the exam or obtain a search warrant for suspects who refuse the exam.
- Follow the Cal OES 2-950 Sexual Assault Suspect Medical Report form and protocol.

Phase Two: Coordinated Interview Process Prior to the Sexual Assault Forensic Medical Examination

- In a coordinated interview process, the law enforcement officer will have interviewed the victim and briefed the SAFE/SANE team examiner about the sexual assault.
- Joint law enforcement and SAFE/SANE team examiner interviews are no longer recommended in many counties based upon *Crawford v. Washington* (2004) 541 U.S. 36. Contact your local district attorney's office to learn their position on joint interviews.
- If requested by the victim, the Rape Crisis Center advocate is present to provide vital emotional support during the law enforcement investigative interviews and the forensic medical exam **but does not ask interview questions or answer for the survivor**. Adherence to these parameters prevents the advocate from becoming part of the investigation and jeopardizing client confidentiality. The advocate stays with the patient for the entire exam unless family or friends are preferred by the victim to provide support.
- The patrol officer either stands-by or returns to duty (per local protocol).
- The SAFE/SANE team examiner interviews the patient pursuant to the patient history sections on the Cal OES 2-923 Forensic Medical Report: Adult/Adolescent Sexual Assault Examination.
- The SAFE/SANE team examiner conducts the forensic medical examination, collects and preserves evidence, documents information on the Cal OES 2-923 Forensic Medical Report form,

and provides the patient with written discharge instructions.

- Discharge instructions provide information regarding follow-up medical care needed for further evaluation of injuries, forensic follow-up photography, prophylaxis given for sexually transmitted disease, and pregnancy prevention.
- If the SAFE/SANE examiner learns that additional crimes were committed and/or that additional evidence may be located at the crime scene, the examiner will notify law enforcement.
- **When preparing the preliminary investigation report, law enforcement needs to:**
 - memorialize statements made by victim and witnesses;
 - describe distinctive characteristics about the suspect's identification and location— if known and suspect is not in custody;
 - prepare a BOLO (Be On the Look Out) alert or an all-points bulletin if the suspect is a stranger;
 - document victim's condition;
 - document condition of clothing (e.g., torn, stained);
 - document outward appearance of the victim and other evidence of trauma;
 - describe observations about the crime scene; and
 - describe any evidence collected from the crime scene or other locations.

Phase Three: Detective Follow-Up

- The detective or investigations unit supervisor is notified about the sexual assault. Depending on the circumstances, a detective may respond to the scene or to the hospital or the sexual assault forensic medical exam facility. The job of the detective is to:
 - review the crime report and the Cal OES 2-923 Forensic Medical Report and initial crime report;
 - make contact with the victim, and provide support and transportation when necessary;
 - interview the victim and verify or clarify the contents of the preliminary investigation,

composite sketch, pretext phone call, etc.;

- interview witnesses;
 - submit a request to the crime laboratory to analyze physical evidence.
 - consult with the crime laboratory on the outcome of the analysis;
 - check the crime scene and obtain appropriate photographs;
 - attempt to identify the suspect, if the suspect is unknown;
 - submit follow-up investigation report to the district attorney's office or city attorney's office, and follow procedures related to the arrest of a suspect, if the suspect is identified and the elements of the crime exist;
 - prepare and submit all preliminary and follow-up investigation reports to the district attorney's office;
 - provide assistance to the deputy district attorney and victim through the court process (NOTE: In some jurisdictions, after the case is filed by the deputy district attorney, the case is assigned to an investigator in the district attorney's office for follow-up investigation, and the detective or law enforcement officer is involved by request); and
 - ensure that victims are informed about their legal rights, especially with regard to any medical attention and the right to have an advocate present.
- **Crime Laboratory: Relationship to Law Enforcement Investigation and the Sexual Assault Forensic Medical Examination**
 - Another active partner of the SART, the crime laboratory analyzes and interprets evidence collected by medical and law enforcement personnel. Its objective is to provide information useful for identifying or eliminating persons suspected of committing the crime and reconstructing the events in question. The crime laboratory has close working relationships with law enforcement agencies and the district attorney's offices.

- **Types of Evidence Analyzed by the Crime Laboratory**

- Clothing and bedding.
- Biological stains and secretions (e.g., semen, blood, saliva).
- Oral, vaginal, rectal samples collected from the victim.
- Foreign bodies used to penetrate victim.
- Hair combings (head and pubic).
- Fingernail scrapings.
- Trace evidence, sometimes called foreign materials (e.g., fibers, vegetation).
- Urine or blood for toxicology.
- Photographs of injuries (including bite marks) and crime scene.
- Potential weapons, bindings, restraints and ligatures used to restrain the victim.
- Evidence materials collected from the suspected assailant.

NOTE: Advise survivors not to bathe, shower, douche, brush teeth, or change clothing prior to sexual assault forensic medical exam; otherwise, important evidence may be lost. If clothing has been changed, bring original clothing and shoes to the medical facility.³⁶

Though research is somewhat limited on the benefits of advocates, the consistent conclusion is that advocacy services facilitate victim recovery and increase access to other services in the community response system; this includes the criminal justice system as well as other social services.³⁷

³⁶ Taken from the California Sexual Assault Response Team (SART) Manual, Third Edition. January, 2016. Published by the California Clinical Forensic Medical Training Center (www.ccfmtc.org), and Sexual Assault Training Standards: A Trainer's Guide.

³⁷ (End Violence Against Women International (EVAWI) Breaking Barriers: The Role of Community-Based and System-Based Victim Advocates Kimberly A. Lonsway, PhD Alison Jones-Lockwood Sergeant Joanne Archambault (Ret.) March 2013, Last updated July 2017)

6. Role of the Counselor/Advocate During the Investigation

The counselor/advocate's role is to provide emotional support, information, and advocacy on behalf of the victim and her/his significant others. Services are provided according to the mandated standards set forth by the California Office of Emergency Services. The counselor/advocate also acts as a supportive team member.

- The counselor/advocate explains procedures that the survivor and family may feel uncomfortable asking about or are not aware that they should be informed about.
- The counselor/advocate serves as a resource for survivors and their families if the law enforcement investigation does not meet their expectations. They facilitate survivors speaking to detectives and describing their feelings about how things are going from their point of view. This prevents frustration and reduces anxiety for survivors.
- The role of the counselor/advocate does not include providing translation services for the law enforcement officer. If allowed to happen, the counselor/advocate becomes part of the investigative process and cannot provide emotional support for the survivor, the counselor/advocate can be subpoenaed for court proceedings, client-confidentiality is breached, and, in subsequent court proceedings, the advocate would not be considered a certified language translator.

Sample Counselor/Advocate Process with Law Enforcement Agencies

- At the exam site and with law enforcement present, advocates:
 - Introduce themselves and the organization they represent.
 - Explain why they were contacted.
 - Inquire as to whether or not the officer has any requests.
 - Provide information to assist the survivor in deciding whether to file a police report, if this decision has not been made. Explains the pros and cons of this decision:

- Explain the importance of filing a police report.
- Explain the questions that law enforcement personnel will ask and why it is important that the survivor answer them to the best of her/his ability.
- Offer to attend all follow-up interviews with the survivor.
- Support the survivor's decision regarding whether or not to file a police report.
- Follow up and inquire which detective is handling the case.
- When requested by law enforcement to be present during follow-up interviews counselor/advocates:
 - Contact the survivor and let him/her know that you have been invited to attend.
 - Inquire if the survivor will feel comfortable with an advocate present.
 - Inquire if the survivor has any special requests.
- When requested by the survivor to be present during follow-up interviews, counselor/advocates:
 - Contact the detective and inform her/him of the survivor's requests.
 - Inquire if the detective has any requests.
- Perform a needs assessment and develop an action plan, including follow-up. Assess and ask about the survivor's needs for accompaniment, support for herself, family and friends, housing, home repair, if this was an in-home assault, child care needs, food, transportation. Develop an action plan to address these needs using the resources of the Rape Crisis Center and public and private community agency resources.
- Handling unforeseen circumstances: Expect the unexpected, and if indicated, consult with your supervisor at the Rape Crisis Center on how to handle unexpected, unusual, or complicated situations. Present a calm demeanor and process the event later with the supervisor or another advocate.
- Arrest of a suspect: anticipate survivor's emotional reaction. For stranger or acquaintance assaults, news of the arrest will, at first, be greeted with relief, and reduction of fear and anxiety. The initial reaction will be followed by anxiety about retaliation if the suspect is let out on bail or possibly by the suspect's friends. In cases of sexual assault by a person known to the victim (e.g. date, friend, relative, family friend, etc.), news of the arrest may generate anxiety, embarrassment or shame as people begin to learn what happened, and a tendency toward social isolation. The victim's family and friends, out of rage and anger, may talk about revenge and retaliation plans which will cause even greater anxiety for the victim as the prospect of more people being hurt or involved creates another dimension of emotion.
- The counselor/advocate should stay in tune with the victim's needs and carefully explain state law regarding the right of the victim to have an advocate present. The victim's needs and expressed preferences should prevail without generating a tension filled situation. If indicated, contact your supervisor to place a call to the watch commander or sergeant in charge of detectives at that time or the next business day to work out these procedures.

Follow-up Counseling Services and California Victim Compensation Board (CalVCB)

- Describe counseling services offered by the Rape Crisis Center (both advocacy services and mental health counseling, if your Center offers this).
- Provide options about seeking mental health counseling from private therapists in the community.
- Describe the California Victim Compensation Board (VCB) benefits such as payment for out-of-pocket medical expenses, psychological counseling, and job rehabilitation.
- Offer to assist in completing the application to the Victim Compensation Board or refer them to the county victim/witness assistance center. An advantage to working with the victim/witness assistance center is that they can check on the status of the application and reimbursements.

Survivors can also apply online to the state program; however, local support from the victim/witness assistance center can be very helpful.

Sexual assault takes away a person's power and feeling of control. Regaining a sense of control is a key step to healing. Having options and making decisions is a simple, yet important, way to feel powerful again.³⁸ The availability of an abbreviated exam gives survivors the option of whether to report to law enforcement or not without having to forego a forensic medical exam.

7. Abbreviated examination

In accordance with the Violence Against Women Act of 2005, 42 U.S.C. § 3796gg-4(d), states and territories may not “require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam.”

Abbreviated Forensic Medical Exams provide individuals who have been sexually assaulted access to a Sexual Assault Forensic Medical Exam (SAFE) without engaging with law enforcement. During an Abbreviated Sexual Assault Forensic Medical Exam only perishable evidence is collected. California law states that “Any victim of a sexual assault who seeks a medical evidentiary examination, as that term is used in Section 13823.93, shall be provided with a medical evidentiary examination. No victim of a sexual assault shall be required to participate or to agree to participate in the criminal justice system, either prior to the examination or at any other time.”

Rationale for the Federal VAWA Law and Policy

From a healthcare standpoint, it is believed that more victims will seek medical care after a sexual assault, if they are not required to immediately engage with law enforcement to request a sexual assault forensic medical examination. From a criminal justice standpoint, it is believed that more victims will ultimately choose to report to law enforcement after they have time to explore their options, work with a counselor/advocate, and develop the ability to overcome barriers to reporting.

³⁸ <http://www.survivorape.org/forensics/supporting/professional-support>

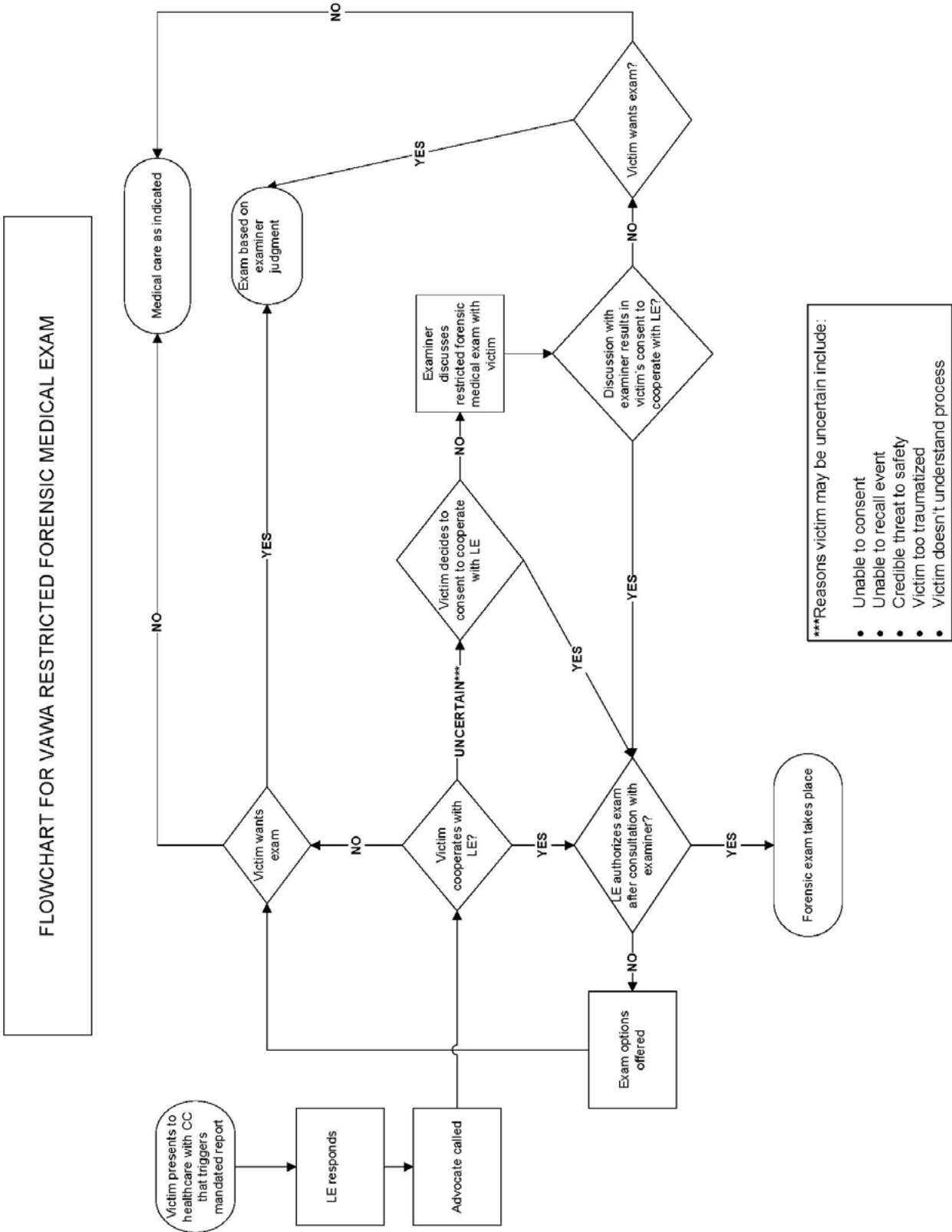
Recognized barriers to reporting and seeking medical care after a sexual assault include, but are not limited to, the following:

- Shame, guilt, embarrassment
- Concerns about confidentiality
- Fear of not being believed
- Psychological trauma (acute posttraumatic stress disorder) causes overwhelming fear, anxiety, and confusion. This common reaction makes it difficult to think and make decisions immediately, and in the weeks following a sexual assault. Acute posttraumatic stress disorder is diagnosed if symptoms last less than 3 months and chronic posttraumatic stress disorder is diagnosed, if symptoms last 3 months or more.
- Sexual assaults often involve but are not limited to: threats of injury or death, threats to children or family members' lives, fear of retaliation for reporting the sexual assault, fears about friends' and family members' reactions, and feeling a complete loss of control over one's life while facing the possibility of death.
- Victim unable to recall event
- Victim doesn't understand the process

Given these fears, not all victim/survivors of sexual assault crimes are immediately prepared to make the decision about whether they want to participate with law enforcement. Federal VAWA policy gives sexual assault victims/survivors time to think about how they want to proceed.³⁹

Distribute and review the following Flow Chart for VAWA Restricted Forensic Medical Exam. Stress how important it is for the counselor/advocate to have a thorough understanding of this process so that they may focus their attention on listening to the survivor's needs and presenting them with all their options. Also make sure to emphasize that the counselor/advocate is there for the survivor and not to persuade them to make one choice over the other, but to make the choice that is right for them.

³⁹ End Violence Against Women International (EVAWI) Victim Impact: How Victims Are Affected by Sexual Assault



***Reasons victim may be uncertain include:

- Unable to consent
- Unable to recall event
- Credible threat to safety
- Victim too traumatized
- Victim doesn't understand process



Unit J – Legal and Court

TOTAL HOURS REQUIRED: At least 1.5 hours

The purpose of this section is to provide an overview of the myriad of legal statewide and local service systems with which survivors may choose to interact. Because sexual assault is a crime that can interrupt so many components of a survivor's life, there is potential for every system she interacts with regularly (education, housing, welfare, employment, etc.) to provide her with some form of support. It is critical for counselors/advocates to understand how these various systems may help survivors so that they can assist the survivors in interacting with said systems or so that the survivor can knowledgeably seek those rights and support for herself. Survivors who choose to make a police report can be assisted throughout the process by a counselor/advocate. The role of the counselor/advocate in these processes is to emotionally support the survivor as she navigates the complexity of the legal system and to advocate for her interests and defend her rights along the way.

NOTE: THIS SECTION REQUIRES THE USE OF A SUBJECT MATTER EXPERT, I.E. AN ATTORNEY FROM THE DISTRICT ATTORNEY'S OFFICE.

Although this unit will be presented by a Subject Matter Expert, Items 1 through 5 must still be covered. As the facilitator for this Unit, your role is to communicate to the presenter all the areas that need to be covered and to be prepared to present on items that are not covered by the Subject Matter Expert, provide clarification, answer questions and potentially explore the issues more thoroughly. For that reason, the information provided below is heavy on content

1. Rights of the Victim/Survivor

Knowing your rights is extremely important as any regular citizen of a state, let alone a citizen who has been sexually assaulted and harmed. Counselor/advocates have a special opportunity to use the resources at their disposal in making the legal system become more victim-centered and user friendly. Oftentimes, the biggest struggle with informing victims of their legal rights is the ability to translate the convoluted legal diction of quoted law into plain terms that can be easily digested and understood by survivors. Here are some of the basic rights that every survivor contemplating participating in the criminal justice system should be made aware of.

General Rights of the Victim/Survivor

Citation of Law:	Quoted Law:	What does that mean?
CA Civil Procedure Code § 1219	Victim of sexual assault cannot be held in contempt of court in California for refusing to testify in the prosecution of a case.	As a victim of sexual assault, a court cannot declare you are being disobedient to it when you choose not to testify in the trial proceedings of your case.
CA Penal Code § 868.5	A victim of sexual assault is entitled to the attendance of up to two persons of her/his choosing for support, one of whom may be a witness at the preliminary hearing and at the trial, or at a juvenile court proceeding during the testimony of a prosecuting witness. Only one of those support persons may accompany the victim to the witness stand, although the other may remain in the courtroom during the witness' testimony.	As a victim of sexual assault, you are allowed to pick two people who can each serve support during trial in different ways. One of them can be a witness at the preliminary hearing and the other can accompany you to the witness stand if you choose to testify.
CA Penal Code § 293.5	The court, at the request of the sexual assault victim, may order the identity of the alleged victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that such an order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the prosecution or the defense.	As a victim of sexual assault, your right to privacy still has legal protection. It is important to understand that as a survivor, protection from your assailant does not end after you choose to file a report. You may request the court to keep your name confidential in all court filings and documents.
CA Penal Code § 813	Removal of statute of limitations - This law allows the prosecution of rape, sodomy, lewd or lascivious acts, continuous sexual abuse of a child, oral copulation, and sexual penetration, that are committed under certain circumstances, as specified, to be commenced at any time. The bill applies to these crimes committed after January 1, 2017, and to crimes for which the statute of limitations that was in effect prior to January 1, 2017, has not run as of January 1, 2017.	Amendment of CA PC § 813 was signed by Governor Jerry Brown and enacted in September of 2016. It provided a huge step towards victims' rights by removing any statute of limitations on sexual assault cases. In other words, a victim's right to file an official report to the police never expires, no matter how much time has passed between the time of assault and the time of report.

Citation of Law:	Quoted Law:	What does that mean?
California Evidence Code Section 782	If evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness, the following procedure shall be followed: a motion must be filed with the court; judge reviews the information outside the presence of the jury; and, determines the relevance of the information.	Procedural safeguards regarding introduction of the sexual assault victim's previous sexual history.
Cal. Evidence Code § 1035.4	What counts as confidential communication? – (1) Information transmitted between the victim and sexual assault counselor in the course of their relationship, and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. (2) All information regarding the facts and circumstances about the alleged sexual assault, and all information about the victim's prior or subsequent sexual conduct or sexual reputation.	(1) So long as the information relates to the reasons for which the survivor consults the counselor, it is privileged, even to the third parties which the counselor needed to disclose the information to for purposes of helping the survivor. (2) All information about the sexual assault itself, and all information on the survivor's previous and subsequent sexual conduct or reputation.
CA Evidence Code § 1035.6	Holder of privilege may be the victim, victim's guardian or conservator if victim has a guardian or conservator, or the personal representative of a deceased victim.	Holder of privilege is the victim or someone who is a guardian or representative of the victim.
CA Evidence Code § 1035.8	A victim of sexual assault has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor, as long as the privilege is claimed by either the victim, a guardian or conservator of the victim, the personal representative of the victim if the victim is deceased, or the sexual assault counselor to whom the communication as made.	The holder of privilege must actively claim the privilege in order to prevent disclosure.

Citation of Law:	Quoted Law:	What does that mean?
Cal Evidence Code § 1036	The sexual assault counselor who received or made a communication subject to the privilege shall claim the privilege if they are present when the communication is sought to be disclosed and is authorized to claim the privilege.	Sexual assault counselor claiming of privilege.
Cal Penal Code § 264.2	<p>Upon report of sexual assault, law enforcement must immediately notify the local Rape Crisis Center.</p> <p>Right to have crisis center notified before medical examination, right to have sexual assault victim counselor and support person present during examination.</p> <p>Notification of Rape Crisis Center by law enforcement and provision of client support during medical/evidentiary exam.</p>	Right to have advocate/support person present at exam.
Cal Penal Code § 680: Sexual Assault Victims' DNA Bill of Rights	<p>Sexual Assault Victims' DNA Bill of Rights.</p> <p>Procedure and conduct of law enforcement agency.</p> <p>Handling of DNA evidence.</p>	Proper procedures and handling of DNA evidence.
Cal Penal Code § 13823.95. (a)	No costs incurred by a qualified health care professional, hospital, or other emergency medical facility for the medical evidentiary examination portion of the examination of the victim of a sexual assault, as described in the protocol developed pursuant to Section 13823.5, when the examination is performed pursuant to Sections 13823.5 and 13823.7, shall be charged directly or indirectly to the victim of the assault.	The victim of the assault is not required to pay for a forensic medical examination.

Citation of Law:	Quoted Law:	What does that mean?
California Penal Code Section 637.4	<p>(a) No state or local governmental agency involved in the investigation or prosecution of crimes, or any employee thereof, shall require or request any complaining witness, in a case involving the use of force, violence, duress, menace, or threat of great bodily harm in the commission of any sex offense, to submit to a polygraph examination as a prerequisite to filing an accusatory pleading.</p> <p>(b) Any person who has been injured by a violator of this section may bring an action against the violator for his actual damages or one thousand dollars (\$1,000), whichever is greater.</p>	Victims of sexual assault cannot be forced to take a polygraph test.
California Penal Code Section 1112	The trial court shall not order any prosecuting witness, complaining witness, or any other witness, or victim in any sexual assault prosecution to submit to a psychiatric or psychological examination for the purpose of assessing his or her credibility.	Victims of sexual assault cannot be forced to submit to a psychological evaluation.
California Penal Code Section 1191.1	<p>The victim of any crime, or the parents or guardians of the victim if the victim is a minor, or the next of kin of the victim if the victim has died, have the right to attend all sentencing proceedings under this chapter and shall be given adequate notice by the probation officer of all sentencing proceedings concerning the person who committed the crime.</p> <p>The victim, or up to two of the victim's parents or guardians if the victim is a minor, or the next of kin of the victim if the victim has died, have the right to appear, personally or by counsel, at the sentencing proceeding and to reasonably express his, her, or their views concerning the crime, the person responsible, and the need for restitution.</p>	Crime victims have the right to speak at the sentencing hearing.

As counselor/advocates are responsible for creating a more user-friendly and accessible system for the survivor, it is important for them to understand all facets of the legal process which takes place after a report is made. Even understanding and articulating survivor rights serves no real support when you don't also educate yourself on the common defenses which might be used against a sexual assault survivor.

2. Common Defenses in Sexual Assault

Consent Defense	This defense acknowledges that the defendant engaged in sexual relations with the complainant but argues that the complainant consented.
Mistaken Identification Defense	In this defense, the attorney acknowledges that the sexual assault may have occurred but claim that the accused was not the attacker. This is commonly referred to as SODDI (Some Other Dude Done It).
Denial Defense	In this defense, the attorney argues either that the alleged acts do not constitute sexual assault or that no such acts occurred.
Mental Capacity Defense	Infrequently used, this defense argues the defendant lacked the physical or mental capacity to engage in the acts alleged.

3. Role of the Counselor/Advocate during Legal and Court Proceedings

The legal system is much more than just the law. The following are ways a counselor/advocate must be able to support a survivor from beginning to end of the legal and court proceedings of a single case.

- Explain the process and all the possibilities (e.g. no charges filed, charges dropped, plea bargaining, trial).
 - **What does it mean to press charges?** After the initial report is made to law enforcement, a survivor can decide whether or not they would like to move forward with the investigation by providing evidence and generally cooperating with law enforcement. Based on the evidence found during this process, the state decides whether the case is strong enough to prosecute. If yes, they formally declare this intention—this is referred to as pressing charges. Although the survivor may indicate a preference for pressing charges or not, the decision is ultimately up to the District Attorney.
 - **Why would the state decide not to move ahead with the case?** If law enforcement or the prosecution team feel that they are not able to prove guilt, they may decide not to press charges. They may have encountered challenges proving the case due to a lack of evidence, an inability to identify the perpetrator, or other factors. Even so, no matter the final outcome, reporting increases the likelihood that the perpetrator will face consequences.
 - **Charges have been pressed. What happens now?** Many sexual assault cases are resolved through a plea bargain. A plea bargain is an agreement between the prosecutor and the perpetrator’s representative, in which the perpetrator agrees to plead guilty to a crime in return for a reduction in penalty, like a lighter sentence.
- Keep the survivor informed during the process.
- Provide support and discuss transportation needs; follow Center’s policy and procedures pertaining to transportation.
- Follow procedures for collaboration with the Victim/Witness Assistance Program, if involved.
- Coordinate with the deputy district attorney handling the case and the victim/witness assistance advocate by visiting a courtroom, if indicated, and explaining the role of the judge, bailiff, court reporter, jury, and describing the location of the defense and prosecution tables.
 - The **judge** presides over court proceedings from the “bench,” which is usually an elevated platform.
 - The **jury** is the group of people seated in the boxed-in area on one side of the courtroom; the judge decides the law in the case and instructs the jury on the law. The jury’s role is to decide the facts in the case, and to apply the law on which the judge has instructed it in order to reach a verdict.
 - The **court reporter** sits near the witness stand in the courtroom and records everything that is said during the trial (or introduced into evidence) by typing it on a stenographic machine or by making an electronic sound recording.
 - The **bailiff** is an officer, similar to a sheriff or sheriff’s deputy, employed to execute writs and processes, make arrests, keep order in the court, etc.
- Explain basic legal terminology such as “objection,” “overruled,” “sustained,” and “defendant.”
- Give suggestions regarding appropriate dress for court and to expect the defendant released on personal recognizance to dress very well.
- Give suggestions, in coordination with the deputy district attorney, regarding where to sit in the courthouse.
- Describe styles of various prosecutors and judges so as to minimize their impact if there is noticeable stylistic behavior.
- Do not provide translation services for any aspect of legal and court proceedings; it is the responsibility of the Court to provide certified translators.
- For the sentencing hearing, help the victim prepare the Victim Impact Statement (VIS) and, if needed to do so, read the VIS for the survivor in court.

4. Civil Remedies

There are more ways than one to make a legal claim against a survivors' perpetrator. The criminal litigation system yields a trial and court proceeding that is different than in civil litigation. It is important for counselor/advocates to have an understanding of both types of legal systems in order to better inform and prepare a survivor.

Civil Suits — Differences in the Burden of Proof between Civil and Criminal Actions

Civil Litigation	In civil litigation, the burden of proof is initially on the plaintiff; however, there are a number of technical situations in which the burden shifts to the defendant. The plaintiff wins if the "preponderance of the evidence" favors the plaintiff. In other words, if the jury believes that there is more than 50% probability that the defendant is guilty, the plaintiff wins. This is a very low standard compared to criminal law.
Criminal Litigation	In criminal litigation, the burden of proof is always on the state; the state must prove the defendant is guilty. The defendant is assumed to be innocent and the defendant needs to prove nothing (except for self-defenses). The state must prove that the defendant satisfied each element of the legal definition of the crime, and the defendant is guilty "beyond a reasonable doubt."
	<ul style="list-style-type: none"> • Rules regarding admissibility of evidence in civil matters.
CA Evidence Code § 1108	Evidence of another sexual offense is not admissible.
CA Evidence Code § 1036.2	Sexual assault defined.
CA Evidence Code § 782	Limited right to have past sexual conduct remain confidential in court.
CA Evidence Code § 1106	Prior sexual conduct of the victim is inadmissible to prove consent to sexual assault.
CA Evidence Code § 1103	Evidence of character of victim of crime; opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of that evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

Difference in remedies

- Civil litigation results in **compensation** (usually financial) for injuries or damages, or an injunction by the court (the court stops the defendant from doing something).
- Criminal litigation results in a guilty defendant being imprisoned or subjected to community service.

Statute of Limitations

- As shown in the chart in section 1, a recent bill was signed and enacted which rid California of any statute of limitations on a survivor's ability to file a report.

Restraining Orders

- Restraining orders needed during the criminal investigation and prosecution are initiated either by the law enforcement agency investigating the case or by the District Attorney's Office. These are called "stay away orders."
- Restraining orders, when there is no criminal prosecution, are filed through a civil process either through the Victim/Witness Assistance Program or by a private attorney.
- Some Rape Crisis Centers assist survivors in completing the paperwork to file for a temporary restraining order. If this something your center does this can be included here.

5. Coordination with Victim/Witness and with Government Claims Board

Victim Witness

There are victim/witness assistance centers in all 58 counties in California, and in the Los Angeles City Attorney's Office.

Minimum Service Requirements for Victim/Witness Assistance Centers (Pen. Code § 13835.5)

- Crisis intervention.
- Emergency assistance (e.g., food, housing, clothing, cash).
- Resource and referral counseling.
- Counseling on problems resulting from the crime.
- Assistance in the processing, filing, and verifying of crimes.
- Assistance in obtaining return of the victim's property when used as evidence.
- Orientation to the criminal justice system.
- Court escort.
- Training of criminal justice system agencies.
- Public presentations.
- Monitoring court cases to inform victims and witnesses regarding case status.
- Notification of friends, relatives, and employers of the occurrence of the crime, upon request of the victim.
- Intervention with employers to prevent loss of pay or other benefits resulting from the crime or participation in the criminal justice system, upon request of the victim.
- Assistance in obtaining restitution for economic loss and providing this information to the probation department, district attorney, and court prior to the imposition of the sentence, upon request of the victim.

Client Confidentiality

Confidentiality for victims receiving services from a victim/witness assistance center is a complex issue to summarize. Currently in California, 51 victim/witness assistance centers are located in district attorney's offices, three are located in probation departments, one is located in a sheriff's department, and three are nonprofit organizations. For those located in a district attorney's office, the program is considered an "agent" for the district attorney.

This means that information relevant to the prosecution must be given to the deputy district attorney by the victim/witness assistance center staff person. Once information is given to the deputy district attorney, the information is discoverable by the defense. Most programs try to facilitate the victim reporting the information to the deputy district attorney rather than the staff person.

Programs located in probation departments and the sheriff's department face a similar situation because they are public agencies. They are considered responsible for disclosure of relevant information. For more information about client confidentiality provisions and restrictions for these programs, contact the local victim/witness assistance center.

Complimentary Advocacy: Interagency Collaboration with Rape Crisis Centers

Each center has an important role in serving sexual assault victims. Some client services provided by victim/witness assistance centers and Rape Crisis Centers are similar, some are unique, and all are complimentary. In some jurisdictions, there are close positive working relationships, which recognize that each advocacy organization has distinctive strengths and capabilities. Achieving collaboration means looking at the strengths and opportunities that each organization brings to the community table and adopting coordinating strategies.

What is the Difference between Rape Crisis Centers and Victim/Witness Assistance Centers?

- **Rape Crisis Centers:**
 - are usually nonprofit organizations with multiple funding sources;
 - provide counseling services both for sexual assault victims who report and sexual assault victims who do not report the crime to law enforcement;
 - provide a 24-hour telephone crisis line and crisis intervention services on 24 hours a day, 7 days a week;
 - provide follow-up counseling, advocacy and supportive services based on the needs of the victim;
 - provide hospital accompaniment services 24 hours a day, 7 days a week;
 - provide accompaniment services during law enforcement investigations to interviews with deputy district attorneys and defense attorneys, and during judicial proceedings; and
 - ensure client confidentiality for sexual assault victims pursuant to state statute.
- **Victim/witness assistance centers:**
 - serve all types of crime victims and witnesses to crime;
 - provide crisis intervention, transportation, problem-oriented counseling (not mental health counseling), emergency assistance (e.g., food, housing, clothing, and cash, if needed), resource and referral counseling, orientation to the criminal justice system, and court accompaniment services;
 - family notification, upon request of the victim;
 - employee notification and intervention, upon request of the victim; and
 - assistance in preparing the crime victim compensation application form.

NOTE: *Victim/witness assistance centers housed in governmental agencies cannot guarantee confidentiality for sexual assault victims.*

The California Victim Compensation Board

The California Victim Compensation Board (CalVCB) is a state program dedicated to providing reimbursement for many crime-related expenses to eligible victims who suffer physical injury or the threat of physical injury as a direct result of a violent crime. CalVCB funding comes from restitution paid by criminal offenders through fines, orders, penalty assessments and federal funds.

Eligibility for Reimbursement of Expenses

- A California resident or non-resident injured in California who suffers physical injury, threat of physical injury, or death. Victims of sexual assault are presumed to have suffered physical injury.
- Family members (e.g., spouse, sibling, child, parent, foster parent, fiancé) are also eligible for benefits whether or not they are California residents. They are described as “derivative victims” for purposes of filing applications for the reimbursable expenses listed below.

Losses Covered

Medical and dental expenses, mental health treatment or counseling, physical therapy expenses, funeral and burial expenses, wage or income loss, loss of support, job retraining expenses for a disabled victim, home or vehicle modifications for a disabled victim, home security improvements, moving/relocation expenses, crime scene clean-up, medically necessary equipment such as a wheelchair, insurance co-payments, loss of support for dependents when a victim is killed or disabled because of a crime, childcare services when a caregiver is killed or disabled because of a crime, and more.

Requirements

The crime must be reported to law enforcement or (in the case of child or elder/dependent adult abuse) to child or adult protective services. The victim must cooperate with law enforcement in the investigation and prosecution of any known suspects. If the victim is a child who has been confirmed as abused, the child may qualify with or without the child’s legal guardian’s cooperation with the authorities, or the identification or prosecution of any known

suspects. The victim must not have knowingly and willingly participated in the commission of the crime or engaged in conduct that caused or led to the crime. Eligibility for program benefits may be limited if the victim/claimant was convicted of a felony committed on or after January 1, 1989, and had not been discharged from probation, parole, or released from a correctional institution at the time losses were incurred.

Submitting an Application for Reimbursement of Expenses

Victims (18 years old or older at the time of the crime) must file an application within three years from the date of the crime. Victims (under 18 years of age at the time of the crime) must file an application with the Board before their 21st birthday.

Assistance in Filing Claims

Additional information on crime victim compensation may be obtained by contacting local county victim/witness assistance centers or CalVCB. Local programs provide assistance to victims in the preparation and submission of these claims to CalVCB, and check on claims status.

Victims may also be assisted by a private attorney in filing claims. Government Code section 13965(d) provides that the Board shall pay private attorney fees of 10 percent of the approved award up to a maximum of \$500. These fees are not deducted from the applicant's award.

A common misconception about eligibility for this program is that the case has to be prosecuted in order for the victim to be eligible for benefits. This is not accurate information; only proof of the crime in the form of a police report, a medical report, a children's protective services report, or an adult protective services report is needed.

Limitations

CalVCP is the "payer of last resort." Other sources of reimbursement such as health or disability insurance must be used first. CalVCP does reimburse for co-pays required by health insurance companies since those expenses are considered "out of pocket."

Appeals Process

If the Victim Compensation Board denies a claim, or partially denies a claim, a claimant can either request reconsideration and provide additional information or file an appeal in court ("petition for writ of mandate") requesting a judge to find that the Board abused its discretion. Reconsideration requests or court appeals must be filed within 60 days of the denial.⁴⁰

⁴⁰ Victim Witness and CalVCB sections taken from the *California Sexual Assault Response Team (SART) Manual, Third Edition*. January, 2016. Published by the California Clinical Forensic Medical Training Center (www.ccfmtc.org), and *Sexual Assault Training Standards: A Trainer's Guide*.



Unit K – Agency Procedures and Requirements

TOTAL HOURS REQUIRED: At least 2.75

The purpose of this section is to make counselor/advocates and staff aware of the regulatory, organizational, and procedural requirements and practices that govern the work of community-based California Rape Crisis Centers.

1. Service Standards

Pass out copies of the Service Standards. Review the Service Standards and stress the following areas:

- 40-Hour Sexual Assault Counselor Training and why it must be completed prior to any interaction with sexual assault victims.
- Continuing Education
- Human Relations Training
- Crisis line response time
- Follow-up Services within 3 working days
- Accompaniment Services
- Advocacy Services

2. Agency Philosophy

Share the Center's agency philosophy. Discuss how the agency philosophy will affect their work as a counselor/advocate.

Rape Crisis Centers take a survivor-centered approach to working with victims of sexual assault. As such, each survivor's journey towards healing is unique. There are a number of reasons a Rape Crisis Center might decide to refer a survivor to other agencies:

- it is in the best interest of the survivor;
- the services needed are beyond the scope and resources of the Rape Crisis Center; or
- other agencies are better equipped to deal with the survivor's more immediate needs of safety and shelter.

This does not mean that the Rape Crisis Center needs to step out of the picture. On the contrary, this is the time to collaborate with those referral agencies to provide a more holistic approach to serving a particular survivor.

3. Agency Limitations

Share with the group your agency's limitations in serving survivors, when referrals are appropriate, and the steps your agency would like the counselor/advocate to take in these situations. Some examples might be:

- A survivor who is actively abusing drugs or alcohol.
- A survivor with mental health issues beyond the agency's scope and resources.
- A survivor who is homeless.

These might all be examples of when your agency would make a referral, and there may be others. With each of the examples listed above, this is an opportunity to collaborate with a local substance abuse treatment facility, mental health department, or homeless shelter to meet not only the survivor's most immediate needs but to continue to support the survivor in the aftermath of the sexual assault.

Rape Crisis Centers would be unable to provide crucial services to survivors without the funding they receive from the California Office of Emergency Services on an annual basis, as well as other funding the agency receives through grants, private donations, and fund raisers.

4. Funding Sources

As each Rape Crisis Center's fund sources are different, the means and method of delivering this information is left up to each individual agency. It is, however, recommended that the information be presented by someone in the agency very familiar with the funding sources, e.g. the agency's Executive Director, CEO, or Finance Director. They should cover not only the sources of funding, but also how each stream affects service delivery decisions.

"It is important to the healing process that victims trust that their innermost concerns and feelings will remain confidential, and the counselor/advocate must make that concern their priority."

5. Client Data Documentation

Some additional background on privilege and confidentiality:

- Privilege laws generally fall into one of three categories: absolute, semi absolute, and qualified. These classifications apply to the victim-counselor privilege laws in effect today.
- California has a qualified privilege that authorizes disclosure if a court finds it appropriate given the facts of the case. In making that determination, a court must use a balancing test, weighing the value of the evidence to the defendant against the victim's need to keep the communication confidential. The defendant is required to establish that the information sought for disclosure is at least minimally relevant or material to his or her defense. Often, the court will conduct an *in camera* (in chambers) review of the evidence before making a decision. As a result, the confidentiality of counseling communications is decided on a case-by-case basis, and both parties are given the opportunity to make their arguments for or against disclosure.

Since client records are not protected by absolute privilege, Rape Crisis Centers take steps to ensure that notes and records will not reveal damaging or incriminating information about the victim. Centers balance the need for information to assist the survivor against how that information could be used

against the survivor if it had to be disclosed in court.

Discuss your center's policies on client data documentation. Be sure to include examples of appropriate and inappropriate documentation in the discussion.

It is recommended that you provide written samples of appropriate and inappropriate documentation and assist counselor/advocates in identifying how they are different. If time permits, it would be helpful to provide everyone with the forms your center uses to document client data. Role play a survivor sharing information about their sexual assault and have them practice taking notes based on your center's policy.

"As we just discussed, client records are confidential due to the client confidentiality privilege. It is each Rape Crisis Center's ethical and legal responsibility to ensure that records are kept in a manner that is safe and secure, with properly limited access."

6. Confidentiality of Records and Subpoenas

Review agency procedures for safeguarding the confidentiality of client records, e.g. custodian of records, how are they stored, who has access, etc.

There may come a time when a counselor/advocate receives a subpoena. Review your agency's procedures for handling subpoenas. Be sure to emphasize the following:

- The agency's procedures must be followed.
- Counselor/advocates are not to respond to subpoenas themselves.

7. Client-Counselor Privilege

Generally, anything said by a sexual assault victim to a counselor/advocate is confidential. Evidence Code Sections 1035-1036.2 provide a client confidentiality privilege or “confidential communication” between the counselor/advocate (who has completed the 40 hours of required training) and the victim. The victim is the holder of the privilege. This means that counselor/advocates cannot share information about the survivor with anyone without the expressed consent of the survivor.

There are some limitations to confidentiality. Review Evidence Code section 1035.4 below:

1035.4

As used in this article, “confidential communication between the sexual assault counselor and the victim” means information transmitted between the victim and the sexual assault counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation, or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information regarding the facts and circumstances involving the alleged sexual assault and also includes all information regarding the victim’s prior or subsequent sexual conduct, and opinions regarding the victim’s sexual conduct or reputation in sexual matters.

The court may compel disclosure of information received by the sexual assault counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault about which the victim is complaining, and which is the subject of a criminal proceeding, if the court determines that the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled. The court may also compel disclosure in proceedings related to child abuse if the court determines the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled.

When a court is ruling on a claim of privilege under this article, the court may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege is willing to have present. If the judge determines that the information is privileged and must not be disclosed, neither he or she nor any other person may ever disclose, without the consent of a person authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers.

If the court determines certain information shall be disclosed, the court shall so order and inform the defendant. If the court finds there is a reasonable likelihood that particular information is subject to disclosure pursuant to the balancing test provided in this section, the following procedure shall be followed:

- (1) The court shall inform the defendant of the nature of the information which may be subject to disclosure.
- (2) The court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the sexual assault counselor regarding the information which the court has determined may be subject to disclosure.
- (3) At the conclusion of the hearing, the court shall rule which items of information, if any, shall be disclosed. The court may make an order stating what evidence may be introduced by the defendant and the nature of questions to be permitted. The defendant may then offer evidence pursuant to the order of the court. Admission of evidence concerning the sexual conduct of the complaining witness is subject to Sections 352, 782, and 1103.

(Amended by Stats. 1983, Ch. 1072, Sec. 2.)

In addition to the two limits of confidentiality identified in the Evidence Code, confidentiality is limited if:

- A judge issues an order following an in-chamber hearing;
- A third party such as a family member, friend, law enforcement officer, or forensic medical examiner is present, during the communication between the survivor and the counselor/

advocate. If a third party is present, the communication is NOT privileged.

The following are also limitations to confidentiality. Some of these limitations apply only to therapists. Other circumstances that **could** cause the counselor/advocate to reveal information to someone else are:

- The survivor signs a release of confidentiality.
- Survivor is a danger to themselves (see previous section on suicide) or to others (California Evidence Code 1024).
- Suspected child or elder abuse is revealed (see Unit C).

For over forty years, survivors and advocates have fought tirelessly to ensure that survivor rights are protected by legislation. It is important for counselor/advocates to be knowledgeable about all of these rights so that they can educate survivors and be an effective advocate for them. Survivors and their rights are recognized in numerous laws, too numerous to cover in this section. However, all of the applicable sexual assault laws are listed in Appendix E of this training guide.

8. California Evidence and Penal Codes Regarding Survivor Rights

Many of the California Evidence and Penal Codes regarding survivor rights were covered in Unit H: Medical, Unit I: Law Enforcement, and Unit J: Legal and Court. This is the time for review.

If there are survivor rights that were not mentioned by the group that you feel it is important to review, do that here.

9. Volunteer Time Documentation

If a Rape Crisis Center uses volunteer time as part of their VOCA match, the California Governor's Office of Emergency Services (Cal OES) requires that Rape Crisis Centers document volunteer time in one of two ways:

- document the actual time worked by using a time reporting system such as sign-in and sign-out sheets, which are completed by the volunteer and contain the signed approval by the supervisor; or
- utilize a volunteer staff schedule where the volunteer staff initial and indicate the days/hours worked and the supervisor signs and dates the schedules to indicate approval.

Whichever method your agency uses, it is important that counselor/advocates understand what is required of them and why it is important. Rape Crisis Centers rely on VOCA funding for survivor services. One of the requirements of receiving VOCA funding is to provide a match. Since many Rape Crisis Centers use volunteer time as their required match for VOCA funding, correct volunteer time documentation is extremely important to that funding.

Review your agency's method of volunteer time documentation. Hand out sample completed copies of required documentation for each counselor/advocate to use as a guide to complete their own. If time permits, have each counselor/advocate complete their own sample. Be sure to inform them of the process and timeframe for submitting their documentation to your agency.

Counselor/advocates will face challenges from time to time in their work. Advocating on behalf of a survivor can at times lead to disagreements with collaborative partners/community professionals. Counselor/advocates who work the crisis hotline will occasionally receive prank or crank calls. It is important for counselor/advocates to know how to handle these situations should they arise.

10. Addressing Problems

With Collaborative Partners

Let the counselor/advocates know the Rape Crisis Center's policy in handling disagreements with collaborative partners/community professionals. Is it the center's policy to have the counselor/advocate handle it directly or bring it back to a specific staff member at the center?

If it is the center's policy to have the counselor/advocate handle it directly, it is helpful to remind them to avoid confrontation with a collaborative partner or community professional in the presence of a victim. Victims are typically experiencing a great deal of trauma and disorganization after reporting a sexual assault, and the last thing they need is to witness conflict between professionals in the community who are there to respond and assist them.⁴¹

With Crank, Prank or Sex Callers

Review how the Rape Crisis Center wants the counselor/advocate to handle a call when they suspect they have a crank, prank or sex caller. Remember, it can be difficult and take some time to determine if a call is authentic so understanding the center's policy will be very helpful when a counselor/advocate finds themselves in this situation.

Dealing with disagreements with collaborative partners and handling crank, prank, or sex callers can be difficult for a new counselor/advocate. Role plays of each scenario using the center's policies are recommended here to help counselor/advocates gain experience and build self-confidence before handling the situations in real life.

Lead a discussion with the group after each role play:

- What worked?
- What didn't work?

Conduct several role plays allowing as many counselor/advocates to practice as time permits.

Another challenge that may face counselor/advocates is when the situation involves a child. The child may be a victim of direct abuse or a witness to the abuse of one parent on the other. It is important for counselor/advocates to know the proper procedures in these situations in order to provide effective support that creates as little additional trauma for the child as possible.

11. Agency Policy if Advocate is Excluded from a Process Such as a Forensic Exam or Law Enforcement Interview

Review the Rape Crisis Center's policy for how a counselor/advocate is to respond if they are excluded from a forensic exam or law enforcement interview when a survivor has indicated they would like them present.

Since this involves a survivor's rights, counselor/advocates need to be confident in handling this situation as the Rape Crisis Center has directed. Although role plays could again be very helpful, it is recommended that two Rape Crisis Center staff present one or two short vignettes handling exclusions based on center guidelines. Encourage questions and discussion after each vignette.

⁴¹ End Violence Against Women International (EVAWI) Breaking Barriers: The Role of Community-Based and System-Based Victim Advocates



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APPENDIX A - ALCOHOL AND DRUG FACILITATED SEXUAL ASSAULT

- **Alcohol** is the most prevalent date rape drug. It is sometimes used for delivery of the drugs listed below; in which case, the victim is subjected to a polydrug episode.
- **GHB, Rohypnol, GBL, and Ketamine** are drugs that are administered surreptitiously to incapacitate a potential victim. These drugs are sometimes taken voluntarily, usually in a social setting or event, because of the “high” effect they can produce. This, however, can cloud a person’s judgment and ability to give consent to sexual activity, possibly leading to a sexual assault.

These drugs cause uninhibited behavior, impaired judgment, loss of consciousness, amnesia, respiratory distress, nausea, convulsions, dizziness, blurred vision, muscle relaxation, slowing of physical ability to respond, coma, and even death. Testing of survivors during the forensic medical examination is important to detect the presence of these substances for medical intervention and criminal justice apprehension purposes. For further information, see <https://www.dea.gov/resource-center/DFSA.PDF>; <https://www.justice.gov/archive/ndic/pubs8/8872/8872p.pdf>; www.projectghb.org; or, any internet search engine using keywords “drug facilitated sexual assault”.

GHB

GHB is most often administered as a clear liquid that tastes salty. This drug causes intoxication followed by a deep sedation that lasts up to 8 hours. The victim may experience reduced inhibitions, nausea, convulsions, amnesia, and loss of consciousness. Mixed with alcohol, *GHB* can have a serious adverse impact upon the central nervous system. This may result in respiratory distress, coma or even death. Once administered, the drug affect begins within 15-30 minutes.

Street Names

Blue Nitro	Grievous Bodily Harm
Cherry Meth	Jib
Easy Lay	Liquid E
Everclear	Liquid Ecstasy
Fantasy	Liquid X
G-juice	Organic Quaalude
G-Riffick	Salty Water or Water
Gamma OH	Scoop
Georgia Home Boy	Soap
Great Hormones at Bedtime	Somatomax

Rohypnol

Rohypnol is a drug that leaves no detectable taste, odor, or color. Its effects are impaired judgment, lowered inhibitions, dizziness, motion difficulty, respiratory depression, amnesia, muscle relaxation, and a slowing of responses. The drug effect begins within 15- 60 minutes. Victims report not being able to remember what happened or where they have been. When combined with alcohol, marijuana, or cocaine, it produces a rapid and very dramatic “high.” Even when Rohypnol is administered alone, users can appear extremely intoxicated, with slurred speech, no coordination, swaying, and blood-shot eyes. When taken repeatedly, it can lead to physical and psychological dependence, which is thought to increase with both doses and duration of use.

Street Names

“roached” Roofies or ruffies Roach	Mind Erasers
Roach-2	Roche’ (the manufacturer is Hoffman-LaRoche)
Forget pills	Roaches
Rophy, roopies, ropies	Circles, Rib and rope

Ketamine

Ketamine is a fast-acting general anesthetic used for both humans and animals. It is also popular in clubs, bars, and “raves” because of its euphoric effect. The drug Ketamine causes impaired judgment, paranoia, numbness, amnesia, convulsions, and respiratory depression. Large drug doses can lead to oxygen starvation to the brain and muscles. The drug effects typically last for about an hour; however, it is not uncommon for the drug effects to last for 4-6 hours. The user will not completely recover from the long-term effects for 48 hours after administration.

Street Names

Cat Valium	Vitamin K
Purple	Kit Kat
Keller	Super K
Special K	Cat Tranquilizer
K	Jet

APPENDIX B - VICTIM/SURVIVOR RIGHTS

- **Notification of Rape Crisis Center**

Penal Code Section 264.2. (a) Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the “Victims of Domestic Violence” card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701, or with the card described in subdivision (a) of Section 680.2, whichever is more applicable.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, and a support person of the victim’s choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in subdivision (a) of Section 680.2. This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

(5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.

(6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.

Penal Code Section 680.2. (a) Upon the initial interaction with a sexual assault victim, a law enforcement officer or medical provider shall provide the victim with a card to be developed by every local law enforcement agency, in consultation with sexual assault experts, that explains all of the rights of sexual assault victims in clear language that is comprehensible to a person proficient in English at the fifth grade level, in at least 12-point font, and available in all major languages of the state. This card shall include, but is not limited to, all of the following:

(1) A clear statement that a sexual assault victim is not required to participate in the criminal justice system or to receive a medical evidentiary or physical examination in order to retain his or her rights under law.

(2) Telephone or Internet Web site contact information for a nearby Rape Crisis Center and sexual assault counselor.

(3) Information about the types of law enforcement protection available to the sexual assault victim, including a temporary protection order, and the process to obtain that protection.

- (4) Instructions for requesting the results of the analysis of the victim's sexual assault forensic evidence.
 - (5) Information about state and federal compensation funds for medical and other costs associated with the sexual assault and information on any municipal, state, or federal right to restitution for sexual assault victims if a criminal trial occurs.
 - (6) A clear statement that the victim has the right to have a sexual assault counselor and at least one other support person of the victim's choosing present at any initial medical evidentiary examination, physical examination, or investigative interview arising out of a sexual assault, and that a sexual assault counselor can be contacted 24 hours a day.
 - (7) Information about the rate of potential evidence degradation.
 - (8) A clear statement that if sexual assault forensic evidence will be tested, it should be transported to the crime laboratory and analyzed within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803.
 - (9) A clear statement that the law enforcement agency or crime laboratory will retain the sexual assault forensic evidence for at least 20 years, or if the victim was under 18 years of age at the time of the alleged offense, at least until the victim's 40th birthday.
- (b) A law enforcement official shall, upon written request by a sexual assault victim, furnish a free copy of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the law enforcement agency, to the victim. A law enforcement agency may redact personal, identifying information in the copy furnished to the victim.
 - (c) A prosecutor shall, pursuant to Section 290.46, upon written request by a sexual assault victim, provide the convicted defendant's information on a sex offender registry to the victim, if the defendant is required to register as a sex offender.
 - (d) The law enforcement agency shall provide sufficient copies of the card described in subdivision (a) to each provider in its jurisdiction of medical evidentiary examinations or physical examinations arising out of sexual assault.

- **Counselor Client Privilege**

Penal Code Sections 1035-1036.2 provides a client confidentiality privilege or "confidential communication" between the sexual assault counselor and the victim. The victim is the holder of the privilege. Eligibility to participate in the client confidentiality privilege is conferred upon those who work in a Rape Crisis Center, have completed 40 hours of training, and have received a certificate evidencing completion of the required training program. This client confidentiality privilege does not currently extend to survivors of domestic violence served by sexual assault victim advocates. Domestic violence advocates have a separate counselor client privilege training requirement which can create issues if the patient is both a sexual assault and domestic violence survivor. Until there is a change in state law, consult the District Attorney's Office for guidance.

- **Provision of Client Support at Interviews**

Penal Code Section 679.04. (a) A victim of sexual assault as the result of any offense specified in paragraph (1) of subdivision (b) of Section 264.2 has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. A victim retains this right regardless of whether he or she has waived the right in a previous medical evidentiary or physical examination or in a previous interview by law enforcement authorities, district attorneys, or defense attorneys. However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or the district attorney determines that the presence of that individual would be detrimental to the purpose of the interview. As used in this section, "victim advocate" means a sexual assault counselor, as defined

in Section 1035.2 of the Evidence Code, or a victim advocate working in a center established under Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4.

(b) (1) Prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a sexual assault, a victim of sexual assault as the result of any offense specified in Section 264.2 shall be notified in writing by the attending law enforcement authority or district attorney that he or she has the right to have victim advocates and a support person of the victim's choosing present at the interview or contact, about any other rights of the victim pursuant to law in the card described in subdivision (a) of Section 680.2, and that the victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. This subdivision applies to investigators and agents employed or retained by law enforcement or the district attorney.

(2) At the time the victim is advised of his or her rights pursuant to paragraph (1), the attending law enforcement authority or district attorney shall also advise the victim of the right to have victim advocates and a support person present at any interview by the defense attorney or investigators or agents employed by the defense attorney.

(3) The presence of a victim advocate shall not defeat any existing right otherwise guaranteed by law. A victim's waiver of the right to a victim advocate is inadmissible in court, unless a court determines the waiver is at issue in the pending litigation.

(4) The victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. It is the intent of the Legislature to encourage every interviewer in this context to have trauma-based training.

(c) An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section.

(d) A law enforcement official shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a medical evidentiary or physical examination.

- "Sexual Assault Victims' DNA Bill of Rights."

Penal Code Section 680. (a) This section shall be known as and may be cited as the "Sexual Assault Victims' DNA Bill of Rights."

(b) The Legislature finds and declares all of the following:

(1) Deoxyribonucleic acid (DNA) and forensic identification analysis is a powerful law enforcement tool for identifying and prosecuting sexual assault offenders.

(2) Existing law requires an adult arrested for or charged with a felony and a juvenile adjudicated for a felony to submit DNA samples as a result of that arrest, charge, or adjudication.

(3) Victims of sexual assaults have a strong interest in the investigation and prosecution of their cases.

(4) Law enforcement agencies have an obligation to victims of sexual assaults in the proper handling, retention, and timely DNA testing of rape kit evidence or other crime scene evidence and to be responsive to victims concerning the developments of forensic testing and the investigation of their cases.

(5) The growth of the Department of Justice's Cal-DNA databank and the national databank through the Combined DNA Index System (CODIS) makes it possible for many sexual assault perpetrators to be identified after their first offense, provided that rape kit evidence is analyzed in a timely manner.

(6) Timely DNA analysis of rape kit evidence is a core public safety issue affecting men, women, and children in the State of California. It is the intent of the Legislature, in order to further public safety, to

encourage DNA analysis of rape kit evidence within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803.

(7) In order to ensure that sexual assault forensic evidence is analyzed within the two-year timeframe required by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803 and to ensure the longest possible statute of limitations for sex offenses, including sex offenses designated pursuant to those subparagraphs, the following should occur:

(A) A law enforcement agency in whose jurisdiction a sex offense specified in Section 261, 261.5, 262, 286, 288a, or 289 occurred should do one of the following for any sexual assault forensic evidence received by the law enforcement agency on or after January 1, 2016:

(i) Submit sexual assault forensic evidence to the crime lab within 20 days after it is booked into evidence.

(ii) Ensure that a rapid turnaround DNA program is in place to submit forensic evidence collected from the victim of a sexual assault directly from the medical facility where the victim is examined to the crime lab within five days after the evidence is obtained from the victim.

(B) The crime lab should do one of the following for any sexual assault forensic evidence received by the crime lab on or after January 1, 2016.

(i) Process sexual assault forensic evidence, create DNA profiles when able, and upload qualifying DNA profiles into CODIS as soon as practically possible, but no later than 120 days after initially receiving the evidence.

(ii) Transmit the sexual assault forensic evidence to another crime lab as soon as practically possible, but no later than 30 days after initially receiving the evidence, for processing of the evidence for the presence of DNA. If a DNA profile is created, the transmitting crime lab should upload the profile into CODIS as soon as practically possible, but no longer than 30 days after being notified about the presence of DNA.

(C) This subdivision does not require a lab to test all items of forensic evidence obtained in a sexual assault forensic evidence examination. A lab is considered to be in compliance with the guidelines of this section when representative samples of the evidence are processed by the lab in an effort to detect the foreign DNA of the perpetrator.

(D) This section does not require a DNA profile to be uploaded into CODIS if the DNA profile does not meet federal guidelines regarding the uploading of DNA profiles into CODIS.

(E) For purposes of this section, a “rapid turnaround DNA program” is a program for the training of sexual assault team personnel in the selection of representative samples of forensic evidence from the victim to be the best evidence, based on the medical evaluation and patient history, the collection and preservation of that evidence, and the transfer of the evidence directly from the medical facility to the crime lab, which is adopted pursuant to a written agreement between the law enforcement agency, the crime lab, and the medical facility where the sexual assault team is based.

(8) For the purpose of this section, “law enforcement” means the law enforcement agency with the primary responsibility for investigating an alleged sexual assault.

(c) (1) Upon the request of a sexual assault victim, the law enforcement agency investigating a violation of Section 261, 261.5, 262, 286, 288a, or 289 shall inform the victim of the status of the DNA testing of the rape kit evidence or other crime scene evidence from the victim’s case. The law enforcement agency may, at its discretion, require that the victim’s request be in writing. The law enforcement agency shall respond to the victim’s request with either an oral or written communication, or by email, if an email address is available. Nothing in this subdivision requires that the law enforcement agency communicate with the victim or the victim’s designee regarding the status of DNA testing absent a specific request from the victim or the victim’s designee.

(2) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims have the following rights:

(A) The right to be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit evidence or other crime scene evidence from their case.

(B) The right to be informed whether or not the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence has been entered into the Department of Justice Data Bank of case evidence.

(C) The right to be informed whether or not there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, provided that disclosure would not impede or compromise an ongoing investigation.

(3) This subdivision is intended to encourage law enforcement agencies to notify victims of information which is in their possession. It is not intended to affect the manner of or frequency with which the Department of Justice provides this information to law enforcement agencies.

(d) If the law enforcement agency does not analyze DNA evidence within six months prior to the time limits established by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803, a victim of a sexual assault offense specified in Section 261, 261.5, 262, 286, 288a, or 289 shall be informed, either orally or in writing, of that fact by the law enforcement agency.

(e) (1) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, a victim of a violation of Section 261, 261.5, 262, 286, 288a, or 289 shall be given written notification by the law enforcement agency of that intention.

(2) A law enforcement agency shall not destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case before at least 20 years, or if the victim was under 18 years of age at the time of the alleged offense, before the victim's 40th birthday.

(f) Written notification under subdivision (d) or (e) shall be made at least 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence from an unsolved sexual assault case.

(g) A sexual assault victim may designate a sexual assault victim advocate, or other support person of the victim's choosing, to act as a recipient of the above information required to be provided by this section.

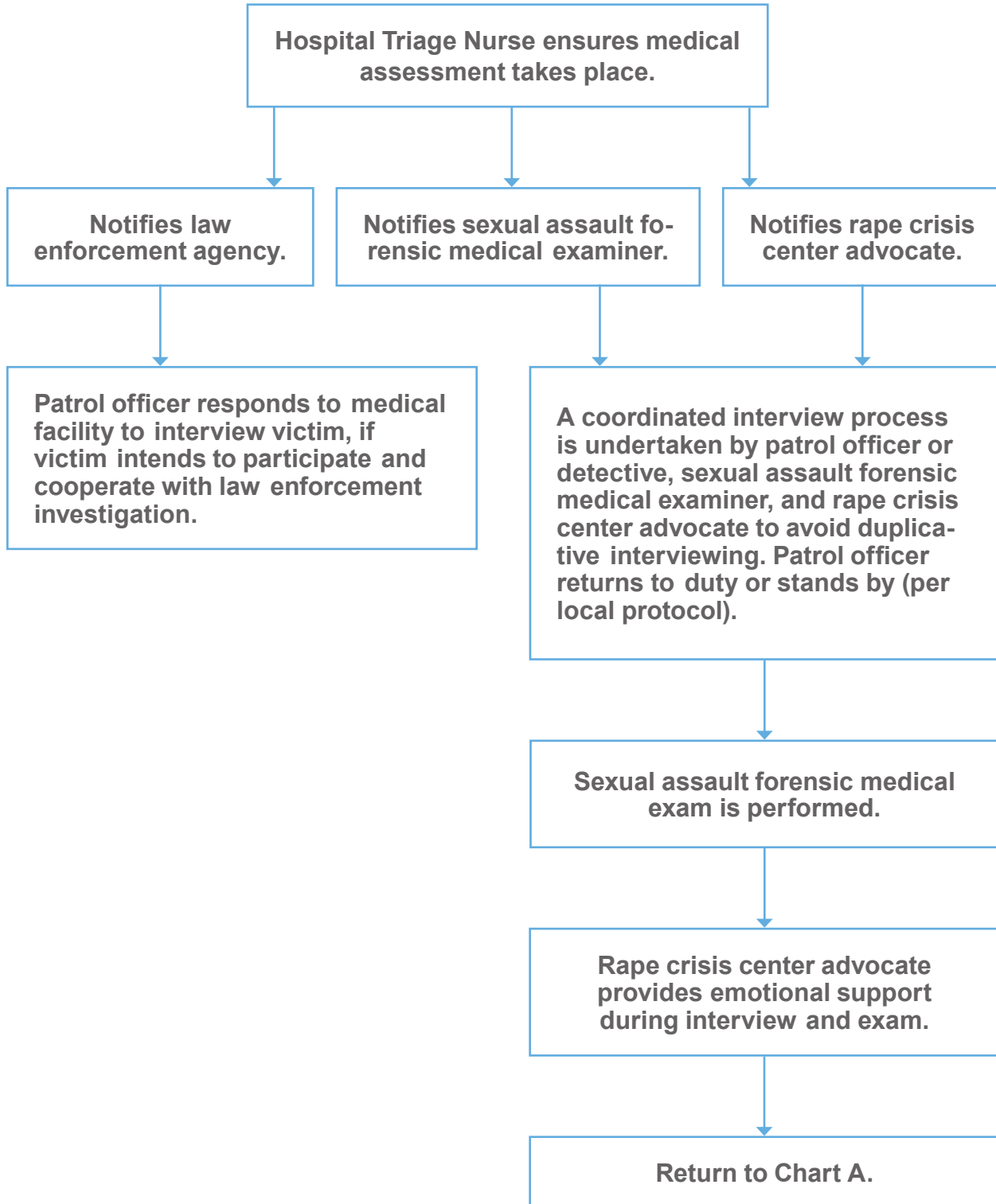
(h) It is the intent of the Legislature that a law enforcement agency responsible for providing information under subdivision (c) do so in a timely manner and, upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware. In order to be entitled to receive notice under this section, the victim or the victim's designee shall keep appropriate authorities informed of the name, address, telephone number, and email address of the person to whom the information should be provided, and any changes of the name, address, telephone number, and email address, if an email address is available.

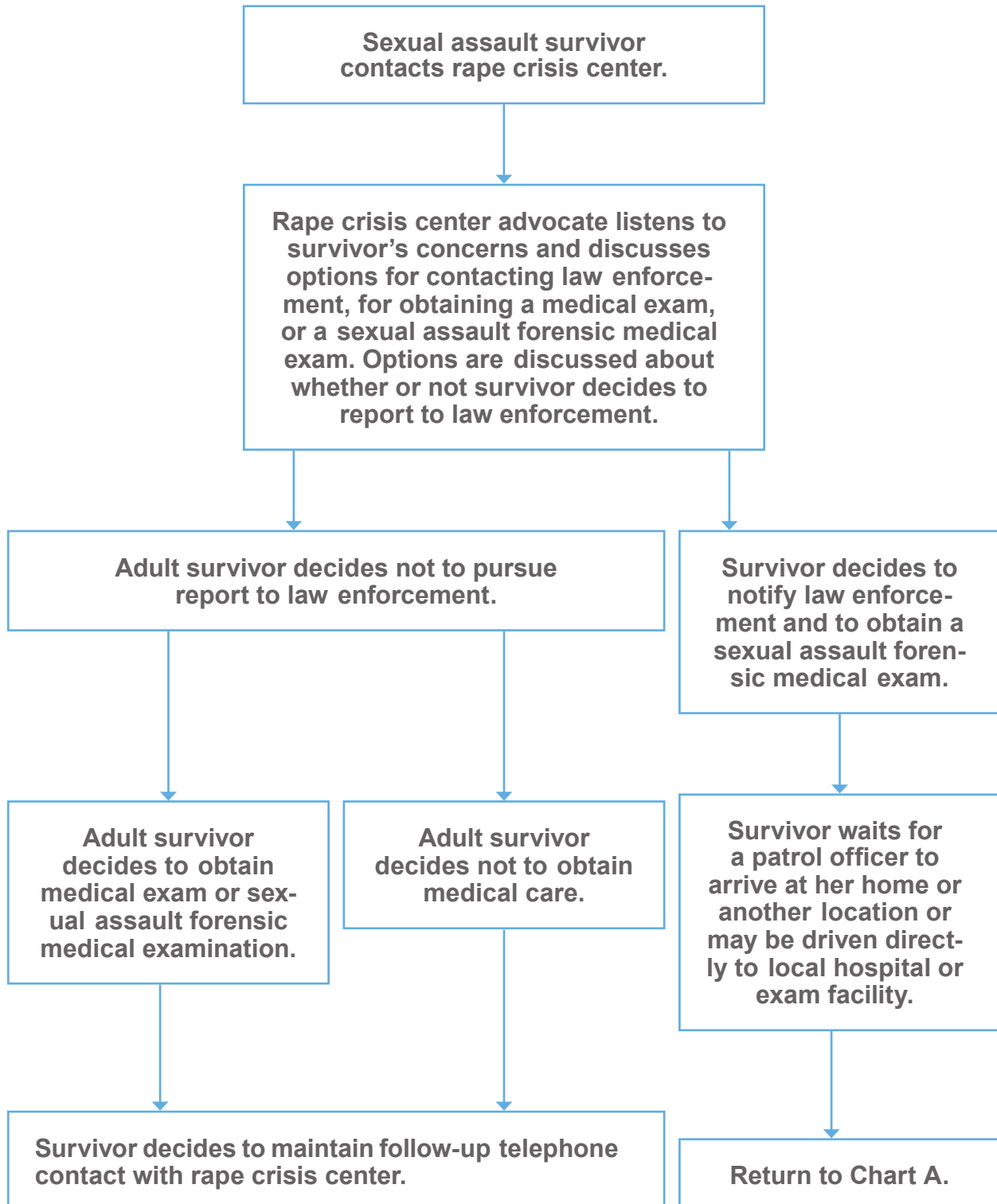
(i) A defendant or person accused or convicted of a crime against the victim shall have no standing to object to any failure to comply with this section. The failure to provide a right or notice to a sexual assault victim under this section may not be used by a defendant to seek to have the conviction or sentence set aside.

(j) The sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under this section is standing to file a writ of mandamus to require compliance with subdivision (d) or (e).

APPENDIX C - CHARTS OF SART CALL-OUT PROCEDURES

**CHART B: SART CALL-OUT PROCEDURES:
PATIENT PRESENTS AT EMERGENCY DEPARTMENT FIRST**



APPENDIX C**CHART C:****SART CALL-OUT PROCEDURES: SURVIVOR CONTACTS RAPE CRISIS CENTER FIRST**

APPENDIX D - CALIFORNIA SEXUAL ASSAULT CRIMINAL LAWS

California Penal Code 243.4. Sexual Battery

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically

incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars (\$3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars (\$2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars (\$2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.

(3) “Seriously disabled” means a person with severe physical or sensory disabilities.

(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) “Minor” means a person under 18 years of age.

(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars (\$10,000).

California Penal Code 261. Rape

(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental

or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, “unconscious of the nature of the act” means incapable of resisting because the victim meets any one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, “threatening to retaliate” means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used

in this paragraph, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, “duress” means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, “menace” means any threat, declaration, or act which shows an intention to inflict an injury upon another.

(Amended by Stats. 2013, Ch. 259, Sec. 1. (AB 65) Effective September 9, 2013.)

261.5. Statutory Rape

(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a “minor” is a person under the age of 18 years and an “adult” is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

(e) (1) Notwithstanding any other provision of this

section, an adult who engages in an act of sexual intercourse with a minor in violation of this section may be liable for civil penalties in the following amounts:

(A) An adult who engages in an act of unlawful sexual intercourse with a minor less than two years younger than the adult is liable for a civil penalty not to exceed two thousand dollars (\$2,000).

(B) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed five thousand dollars (\$5,000).

(C) An adult who engages in an act of unlawful sexual intercourse with a minor at least three years younger than the adult is liable for a civil penalty not to exceed ten thousand dollars (\$10,000).

(D) An adult over the age of 21 years who engages in an act of unlawful sexual intercourse with a minor under 16 years of age is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000).

(2) The district attorney may bring actions to recover civil penalties pursuant to this subdivision. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited with the treasurer of the county in which the judgment was entered, and the remainder shall be deposited in the Underage Pregnancy Prevention Fund, which is hereby created in the State Treasury. Amounts deposited in the Underage Pregnancy Prevention Fund may be used only for the purpose of preventing underage pregnancy upon appropriation by the Legislature.

(3) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant’s ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(Amended by Stats. 2011, Ch. 15, Sec. 302. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

261.6. Consent

In prosecutions under Section 261, 262, 286, 288a, or 289, in which consent is at issue, “consent” shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 288a, or 289.

Nothing in this section shall affect the admissibility of evidence or the burden of proof on the issue of consent.

(Amended by Stats. 1994, Ch. 1188, Sec. 1. Effective January 1, 1995.)

261.7

In prosecutions under Section 261, 262, 286, 288a, or 289, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

(Amended by Stats. 1995, Ch. 177, Sec. 1. Effective January 1, 1996.)

261.9.

(a) Any person convicted of seeking to procure or procuring the sexual services of a prostitute in violation of subdivision (b) of Section 647, if the prostitute is under 18 years of age, shall be ordered by the court, in addition to any other penalty or fine imposed, to pay an additional fine in an amount not to exceed twenty-five thousand dollars (\$25,000).

(b) Every fine imposed and collected pursuant to this section shall, upon appropriation by the Legislature, be available to fund programs and services for commercially sexually exploited minors in the counties where the underlying offenses are committed.

(Added by Stats. 2011, Ch. 75, Sec. 3. (AB 12) Effective January 1, 2012.)

262. Spousal Rape

(a) Rape of a person who is the spouse of the perpetrator is an act of sexual intercourse accomplished under any of the following circumstances:

(1) Where it is accomplished against a person’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(2) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused.

(3) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

(4) Where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, “threatening to retaliate” means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(5) Where the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, “duress” means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, “menace” means any threat, declaration, or act that shows an intention to inflict an injury upon another.

(d) If probation is granted upon conviction of a violation of this section, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women’s shelter, up to a maximum of one thousand dollars (\$1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant’s offense.

For any order to pay a fine, make payments to a battered women’s shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant’s ability to pay. In no event shall any order to make payments to a battered women’s shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

(Amended by Stats. 2006, Ch. 45, Sec. 1. Effective January 1, 2007.)

263.

The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.

(Amended by Stats. 1979, Ch. 994.)

263.1.

(a) The Legislature finds and declares that all forms of nonconsensual sexual assault may be considered rape for purposes of the gravity of the offense and the support of survivors.

(b) This section is declarative of existing law.

(Added by Stats. 2016, Ch. 848, Sec. 1. (AB 701) Effective January 1, 2017.)

264. Punishment for Rape

(a) Except as provided in subdivision (c), rape, as defined in Section 261 or 262, is punishable by imprisonment in the state prison for three, six, or eight years.

(b) In addition to any punishment imposed under this section the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates Section 261 or 262 with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant’s ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(c) (1) Any person who commits rape in violation of paragraph (2) of subdivision (a) of Section 261 upon a child who is under 14 years of age shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(2) Any person who commits rape in violation of paragraph (2) of subdivision (a) of Section 261 upon a minor who is 14 years of age or older shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(3) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(Amended by Stats. 2010, Ch. 219, Sec. 4. (AB 1844) Effective September 9, 2010.)

264.1.

(a) The provisions of Section 264 notwithstanding, in any case in which the defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261, 262, or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, the defendant shall suffer confinement in the state prison for five, seven, or nine years.

(b) (1) If the victim of an offense described in

subdivision (a) is a child who is under 14 years of age, the defendant shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(2) If the victim of an offense described in subdivision (a) is a minor who is 14 years of age or older, the defendant shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(3) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(Amended by Stats. 2010, Ch. 219, Sec. 5. (AB 1844) Effective September 9, 2010.)

264.2

(a) Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701, or with the card described in subdivision (a) of Section 680.2, whichever is more applicable.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in subdivision (a) of Section 680.2. This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.

(3) The hospital may verify with the law enforcement

officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

(5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.

(6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.

(Amended by Stats. 2017, Ch. 692, Sec. 1. (AB 1312) Effective January 1, 2018.)

265.

Every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment pursuant to subdivision (h) of Section 1170.

(Amended by Stats. 2011, Ch. 15, Sec. 303. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

266.

Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of 18 years, into any house of ill fame, or of assignment, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one

year, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment.

(Amended by Stats. 1983, Ch. 1092, Sec. 256. Effective September 27, 1983. Operative January 1, 1984, by Sec. 427 of Ch. 1092.)

266a.

Each person who, within this state, takes any person against his or her will and without his or her consent, or with his or her consent procured by fraudulent inducement or misrepresentation, for the purpose of prostitution, as defined in subdivision (b) of Section 647, is punishable by imprisonment in the state prison, and a fine not exceeding ten thousand dollars (\$10,000).

(Amended by Stats. 2014, Ch. 109, Sec. 1. (AB 2424) Effective January 1, 2015.)

266b.

Every person who takes any other person unlawfully, and against his or her will, and by force, menace, or duress, compels him or her to live with such person in an illicit relation, against his or her consent, or to so live with any other person, is punishable by imprisonment pursuant to subdivision (h) of Section 1170.

(Amended by Stats. 2011, Ch. 15, Sec. 304. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

266c.

Every person who induces any other person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in a county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, "fear" means the fear of physical injury or death to the person or to any relative of the person or member of the person's family.

(Amended by Stats. 2000, Ch. 287, Sec. 4. Effective January 1, 2001.)

266d.

Any person who receives any money or other valuable thing for or on account of placing in custody any other person for the purpose of causing the other person to cohabit with any person to whom the other person is not married, is guilty of a felony.

(Amended by Stats. 1975, Ch. 996.)

266e.

Every person who purchases, or pays any money or other valuable thing for, any person for the purpose of prostitution as defined in subdivision (b) of Section 647, or for the purpose of placing such person, for immoral purposes, in any house or place against his or her will, is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(Amended by Stats. 2011, Ch. 15, Sec. 304.5. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

266f.

Every person who sells any person or receives any money or other valuable thing for or on account of his or her placing in custody, for immoral purposes, any person, whether with or without his or her consent, is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(Amended by Stats. 2011, Ch. 15, Sec. 304.7. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

266g.

Every man who, by force, intimidation, threats, persuasion, promises, or any other means, places or leaves, or procures any other person or persons to place or leave, his wife in a house of prostitution, or connives at or consents to, or permits, the placing or leaving of his wife in a house of prostitution, or allows or permits her to remain therein, is guilty of a felony and punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three or four years; and in all prosecutions under this section a wife is a competent witness against her husband.

(Amended by Stats. 2011, Ch. 15, Sec. 305. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats.

2011, Ch. 39, Sec. 68.)

266h.

(a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punishable by imprisonment in the state prison for three, four, or six years.

(b) Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, when the prostitute is a minor, is guilty of pimping a minor, a felony, and shall be punishable as follows:

(1) If the person engaged in prostitution is a minor 16 years of age or older, the offense is punishable by imprisonment in the state prison for three, four, or six years.

(2) If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

(Amended by Stats. 2010, Ch. 709, Sec. 8. (SB 1062) Effective January 1, 2011.)

266i.

(a) Except as provided in subdivision (b), any person who does any of the following is guilty of pandering, a felony, and shall be punishable by imprisonment in the state prison for three, four, or six years:

(1) Procures another person for the purpose of prostitution.

(2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades, or encourages another person to become a prostitute.

(3) Procures for another person a place as an inmate in a house of prostitution or as an inmate of any

place in which prostitution is encouraged or allowed within this state.

(4) By promises, threats, violence, or by any device or scheme, causes, induces, persuades, or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate.

(5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.

(6) Receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.

(b) Any person who does any of the acts described in subdivision (a) with another person who is a minor is guilty of pandering, a felony, and shall be punishable as follows:

(1) If the other person is a minor 16 years of age or older, the offense is punishable by imprisonment in the state prison for three, four, or six years.

(2) If the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

(Amended by Stats. 2010, Ch. 709, Sec. 9. (SB 1062) Effective January 1, 2011.)

266j.

Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available to another person, a child under the age of 16 for the purpose of any lewd or lascivious act as defined in Section 288, or who causes, induces, or persuades a child under the age of 16 to engage in such an act with another person, is guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years, and by a fine not to exceed fifteen thousand dollars (\$15,000).

(Amended by Stats. 1987, Ch. 1068, Sec. 1.)

266k.

(a) Upon the conviction of any person for a violation

of Section 266h or 266i, the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed five thousand dollars (\$5,000). In setting the amount of the fine, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, whether the defendant derived any economic gain as the result of the crime, and the extent to which the victim suffered losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs under Section 13837.

(b) Upon the conviction of any person for a violation of Section 266j or 267, the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed twenty-five thousand dollars (\$25,000).

(c) Fifty percent of the fines collected pursuant to subdivision (b) and deposited in the Victim-Witness Assistance Fund pursuant to subdivision (a) shall be granted to community-based organizations that serve minor victims of human trafficking.

(d) If the court orders a fine to be imposed pursuant to this section, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

(Amended by Stats. 2014, Ch. 714, Sec. 1. (SB 1388) Effective January 1, 2015.)

267.

Every person who takes away any other person under the age of 18 years from the father, mother, guardian, or other person having the legal charge of the other person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison, and a fine not exceeding two thousand dollars (\$2,000).

(Amended by Stats. 1983, Ch. 1092, Sec. 258. Effective September 27, 1983. Operative January 1, 1984, by Sec. 427 of Ch. 1092.)

269.

(a) Any person who commits any of the following acts upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Rape or sexual penetration, in concert, in violation of Section 264.1.

(3) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(4) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(5) Sexual penetration, in violation of subdivision (a) of Section 289.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life.

(c) The court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

Penal Code 281.

(a) Every person having a spouse living, who marries or enters into a registered domestic partnership with any other person, except in the cases specified in Section 282, is guilty of bigamy.

(b) Upon a trial for bigamy, it is not necessary to prove either of the marriages or registered domestic partnerships by the register, certificate, or other record evidence thereof, but the marriages or registered domestic partnerships may be proved by evidence which is admissible to prove a marriage or registered domestic partnership in other cases; and when the second marriage or registered domestic partnership took place out of this state, proof of that fact, accompanied with proof of cohabitation thereafter in this state, is sufficient to sustain the charge.

(Amended by Stats. 2016, Ch. 50, Sec. 70. (SB 1005) Effective January 1, 2017.)

282.

Section 281 does not extend to any of the following:

(a) To any person by reason of any former marriage or former registered domestic partnership whose

spouse by such marriage or registered domestic partnership has been absent for five successive years without being known to such person within that time to be living.

(b) To any person by reason of any former marriage, or any former registered domestic partnership, which has been pronounced void, annulled, or dissolved by the judgment of a competent court.

(Amended by Stats. 2016, Ch. 50, Sec. 71. (SB 1005) Effective January 1, 2017.)

283.

Bigamy is punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment in a county jail not exceeding one year or in the state prison.

(Amended by Stats. 1983, Ch. 1092, Sec. 264. Effective September 27, 1983. Operative January 1, 1984, by Sec. 427 of Ch. 1092.)

284.

Every person who knowingly and willfully marries or enters into a registered domestic partnership with the spouse of another, in any case in which such spouse would be punishable under the provisions of this chapter, is punishable by a fine not less than five thousand dollars (\$5,000), or by imprisonment pursuant to subdivision (h) of Section 1170.

(Amended by Stats. 2016, Ch. 50, Sec. 72. (SB 1005) Effective January 1, 2017.)

285.

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

(Amended by Stats. 2005, Ch. 477, Sec. 1. Effective January 1, 2006.)

286. Sodomy

(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall

be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of

immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(4) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

- (1) Was unconscious or asleep.
- (2) Was not aware, knowing, perceiving, or cognizant that the act occurred.
- (3) Was not aware, knowing, perceiving, or cognizant

of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or

reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(Amended by Stats. 2013, Ch. 259, Sec. 2. (AB 65) Effective September 9, 2013.)

286.5. Sexual Abuse of Animals

Any person who sexually assaults any animal protected by Section 597f for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.

(Added by Stats. 1975, Ch. 71.)

288. Lewd and Lascivious Acts

(a) Except as provided in subdivision (i), any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) (1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

(c) (1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.

(d) In any arrest or prosecution under this section or Section 288.5, the peace officer, district attorney, and the court shall consider the needs of the child

victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.

(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars (\$10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.

If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

(f) For purposes of paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c), the following definitions apply:

(1) "Caretaker" means an owner, operator, administrator, employee, independent contractor, agent, or volunteer of any of the following public or private facilities when the facilities provide care for elder or dependent persons:

(A) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(B) Clinics.

(C) Home health agencies.

(D) Adult day health care centers.

(E) Secondary schools that serve dependent persons and postsecondary educational institutions that serve dependent persons or elders.

(F) Sheltered workshops.

(G) Camps.

(H) Community care facilities, as defined by Section 1402 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(I) Respite care facilities.

(J) Foster homes.

(K) Regional centers for persons with developmental disabilities.

(L) A home health agency licensed in accordance with Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(M) An agency that supplies in-home supportive services.

(N) Board and care facilities.

(O) Any other protective or public assistance agency that provides health services or social services to elder or dependent persons, including, but not limited to, in-home supportive services, as defined in Section 14005.14 of the Welfare and Institutions Code.

(P) Private residences.

(2) "Board and care facilities" means licensed or unlicensed facilities that provide assistance with one or more of the following activities:

(A) Bathing.

(B) Dressing.

(C) Grooming.

(D) Medication storage.

(E) Medical dispensation.

(F) Money management.

(3) "Dependent person" means any person who has a physical or mental impairment that substantially restricts his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have significantly diminished because of age. "Dependent person" includes any person who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(g) Paragraph (2) of subdivision (b) and paragraph

(2) of subdivision (c) apply to the owners, operators, administrators, employees, independent contractors, agents, or volunteers working at these public or private facilities and only to the extent that the individuals personally commit, conspire, aid, abet, or facilitate any act prohibited by paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c).

(h) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) do not apply to a caretaker who is a spouse of, or who is in an equivalent domestic relationship with, the dependent person under care.

(i) (1) Any person convicted of a violation of subdivision (a) shall be imprisoned in the state prison for life with the possibility of parole if the defendant personally inflicted bodily harm upon the victim.

(2) The penalty provided in this subdivision shall only apply if the fact that the defendant personally inflicted bodily harm upon the victim is pled and proved.

(3) As used in this subdivision, “bodily harm” means any substantial physical injury resulting from the use of force that is more than the force necessary to commit the offense.

(Amended by Stats. 2010, Ch. 219, Sec. 7. (AB 1844) Effective September 9, 2010.)

288.1.

Any person convicted of committing any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years shall not have his or her sentence suspended until the court obtains a report from a reputable psychiatrist, from a reputable psychologist who meets the standards set forth in Section 1027, as to the mental condition of that person.

(Amended by Stats. 2005, Ch. 477, Sec. 2. Effective January 1, 2006.)

288.2.

(a) (1) Every person who knows, should have known, or believes that another person is a minor, and who knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including by physical delivery, telephone, electronic communication, or in person, any harmful matter that depicts a minor or minors engaging in sexual conduct, to the other person with the intent

of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of the minor, and with the intent or for the purposes of engaging in sexual intercourse, sodomy, or oral copulation with the other person, or with the intent that either person touch an intimate body part of the other, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or is guilty of a felony, punishable by imprisonment in the state prison for two, three, or five years.

(2) If the matter used by the person is harmful matter but does not include a depiction or depictions of a minor or minors engaged in sexual conduct, the offense is punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for 16 months, or two or three years.

(3) For purposes of this subdivision, the offense described in paragraph (2) shall include all of the elements described in paragraph (1), except as to the element modified in paragraph (2).

(b) For purposes of this section, “sexual conduct” has the same meaning as defined in subdivision (d) of Section 311.4.

(c) For purposes of this section, “harmful matter” has the same meaning as defined in Section 313.

(d) For purposes of this section, an intimate body part includes the sexual organ, anus, groin, or buttocks of any person, or the breasts of a female.

(e) Prosecution under this section shall not preclude prosecution under any other provision of law.

(f) It shall be a defense to any prosecution under this section that a parent or guardian committed the act charged in aid of legitimate sex education.

(g) It shall be a defense in any prosecution under this section that the act charged was committed in aid of legitimate scientific or educational purposes.

(h) It does not constitute a violation of this section for a telephone corporation, as defined in Section 234 of the Public Utilities Code, a cable television company franchised pursuant to Section 53066 of the Government Code, or any of its affiliates, an Internet service provider, or commercial online service provider, to carry, broadcast, or transmit messages described in this section or perform related activities in providing telephone, cable television, Internet, or commercial online services.

(Repealed and added by Stats. 2013, Ch. 777, Sec. 2. (SB 145) Effective January 1, 2014.)

288.3.

(a) Every person who contacts or communicates with a minor, or attempts to contact or communicate with a minor, who knows or reasonably should know that the person is a minor, with intent to commit an offense specified in Section 207, 209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 289, 311.1, 311.2, 311.4 or 311.11 involving the minor shall be punished by imprisonment in the state prison for the term prescribed for an attempt to commit the intended offense.

(b) As used in this section, "contacts or communicates with" shall include direct and indirect contact or communication that may be achieved personally or by use of an agent or agency, any print medium, any postal service, a common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications device or system.

(c) A person convicted of a violation of subdivision (a) who has previously been convicted of a violation of subdivision (a) shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

(Added November 7, 2006, by initiative Proposition 83, Sec. 6. Note: Prop. 83 is titled The Sexual Predator Punishment and Control Act: Jessica's Law.)

288.4.

(a) (1) Every person who, motivated by an unnatural or abnormal sexual interest in children, arranges a meeting with a minor or a person he or she believes to be a minor for the purpose of exposing his or her genitals or pubic or rectal area, having the child expose his or her genitals or pubic or rectal area, or engaging in lewd or lascivious behavior, shall be punished by a fine not exceeding five thousand dollars (\$5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(2) Every person who violates this subdivision after a prior conviction for an offense listed in subdivision (c) of Section 290 shall be punished by imprisonment in the state prison.

(b) Every person described in paragraph (1) of subdivision (a) who goes to the arranged meeting place at or about the arranged time, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

(Added by renumbering Section 288.3 (as added by Stats. 2006, Ch. 337) by Stats. 2007, Ch. 579, Sec. 5. Effective October 13, 2007.)

288.5.

(a) Any person who either resides in the same home with the minor child or has recurring access to the child, who over a period of time, not less than three months in duration, engages in three or more acts of substantial sexual conduct with a child under the age of 14 years at the time of the commission of the offense, as defined in subdivision (b) of Section 1203.066, or three or more acts of lewd or lascivious conduct, as defined in Section 288, with a child under the age of 14 years at the time of the commission of the offense is guilty of the offense of continuous sexual abuse of a child and shall be punished by imprisonment in the state prison for a term of 6, 12, or 16 years.

(b) To convict under this section the trier of fact, if a jury, need unanimously agree only that the requisite number of acts occurred not on which acts constitute the requisite number.

(c) No other act of substantial sexual conduct, as defined in subdivision (b) of Section 1203.066, with a child under 14 years of age at the time of the commission of the offenses, or lewd and lascivious acts, as defined in Section 288, involving the same victim may be charged in the same proceeding with a charge under this section unless the other charged offense occurred outside the time period charged under this section or the other offense is charged in the alternative. A defendant may be charged with only one count under this section unless more than one victim is involved in which case a separate count may be charged for each victim.

(Amended by Stats. 2006, Ch. 337, Sec. 8. Effective September 20, 2006.)

288.7.

(a) Any person 18 years of age or older who engages

in sexual intercourse or sodomy with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 25 years to life.

(b) Any person 18 years of age or older who engages in oral copulation or sexual penetration, as defined in Section 289, with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 15 years to life.

(Added by Stats. 2006, Ch. 337, Sec. 9. Effective September 20, 2006.)

288a.

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of oral copulation upon a minor who is 14 years of age or older, when

the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (A) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (B) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (C) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate

and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(4) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably

should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(Amended by Stats. 2013, Ch. 282, Sec. 1. (SB 59) Effective September 9, 2013.)

289. Rape with a foreign object

(a) (1) (A) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's

will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part

1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable

belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in a county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over 21 years of age who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) “Sexual penetration” is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant’s or another person’s genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) “Foreign object, substance, instrument, or device” shall include any part of the body, except a sexual organ.

(3) “Unknown object” shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), “threatening to retaliate” means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, “victim” includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another

person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

(Amended by Stats. 2013, Ch. 282, Sec. 2. (SB 59) Effective September 9, 2013.)

289.5.

(a) Every person who flees to this state with the intent to avoid prosecution for an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290, and who has been charged with that offense under the laws of the jurisdiction from which the person fled, is guilty of a misdemeanor.

(b) Every person who flees to this state with the intent to avoid custody or confinement imposed for conviction of an offense under the laws of the jurisdiction from which the person fled, which offense, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290, is guilty of a misdemeanor.

(c) No person shall be charged and prosecuted for an offense under this section unless the prosecutor has requested the other jurisdiction to extradite the person and the other jurisdiction has refused to do so.

(d) Any person who is convicted of any felony sex offense described in subdivision (c) of Section 290, that is committed after fleeing to this state under the circumstances described in subdivision (a) or (b) of this section, shall, in addition and consecutive to the punishment for that conviction, receive an additional term of two years' imprisonment.

(Amended by Stats. 2007, Ch. 579, Sec. 6. Effective October 13, 2007.)

289.6.

(a) (1) An employee or officer of a public entity health facility, or an employee, officer, or agent of a private person or entity that provides a health facility or staff for a health facility under contract with a public entity, who engages in sexual activity with a consenting adult who is confined in a health facility is guilty of a public offense. As used in this paragraph, "health facility" means a health facility

as defined in subdivisions (b), (e), (g), (h), and (j) of, and subparagraph (C) of paragraph (2) of subdivision (i) of, Section 1250 of the Health and Safety Code, in which the victim has been confined involuntarily.

(2) An employee or officer of a public entity detention facility, or an employee, officer, agent of a private person or entity that provides a detention facility or staff for a detention facility, a person or agent of a public or private entity under contract with a detention facility, a volunteer of a private or public entity detention facility, or a peace officer who engages in sexual activity with a consenting adult who is confined in a detention facility is guilty of a public offense.

(3) An employee with a department, board, or authority under the Department of Corrections and Rehabilitation or a facility under contract with a department, board, or authority under the Department of Corrections and Rehabilitation, who, during the course of his or her employment directly provides treatment, care, control, or supervision of inmates, wards, or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward, or parolee, is guilty of a public offense.

(b) As used in this section, the term "public entity" means the state, federal government, a city, a county, a city and county, a joint county jail district, or any entity created as a result of a joint powers agreement between two or more public entities.

(c) As used in this section, the term "detention facility" means:

(1) A prison, jail, camp, or other correctional facility used for the confinement of adults or both adults and minors.

(2) A building or facility used for the confinement of adults or adults and minors pursuant to a contract with a public entity.

(3) A room that is used for holding persons for interviews, interrogations, or investigations and that is separate from a jail or located in the administrative area of a law enforcement facility.

(4) A vehicle used to transport confined persons during their period of confinement, including transporting a person after he or she has been arrested but has not been booked.

(5) A court holding facility located within or adjacent

to a court building that is used for the confinement of persons for the purpose of court appearances.

(d) As used in this section, “sexual activity” means:

(1) Sexual intercourse.

(2) Sodomy, as defined in subdivision (a) of Section 286.

(3) Oral copulation, as defined in subdivision (a) of Section 288a.

(4) Sexual penetration, as defined in subdivision (k) of Section 289.

(5) The rubbing or touching of the breasts or sexual organs of another, or of oneself in the presence of and with knowledge of another, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of oneself or another.

(e) Consent by a confined person or parolee to sexual activity proscribed by this section is not a defense to a criminal prosecution for violation of this section.

(f) This section does not apply to sexual activity between consenting adults that occurs during an overnight conjugal visit that takes place pursuant to a court order or with the written approval of an authorized representative of the public entity that operates or contracts for the operation of the detention facility where the conjugal visit takes place, to physical contact or penetration made pursuant to a lawful search, or bona fide medical examinations or treatments, including clinical treatments.

(g) Any violation of paragraph (1) of subdivision (a), or a violation of paragraph (2) or (3) of subdivision (a) as described in paragraph (5) of subdivision (d), is a misdemeanor.

(h) Any violation of paragraph (2) or (3) of subdivision (a), as described in paragraph (1), (2), (3), or (4) of subdivision (d), shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison, or by a fine of not more than ten thousand dollars (\$10,000) or by both that fine and imprisonment.

(i) Any person previously convicted of a violation of this section shall, upon a subsequent violation, be guilty of a felony.

(j) Anyone who is convicted of a felony violation of this section who is employed by a department, board, or authority within the Department of Corrections and Rehabilitation shall be terminated in accordance

with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). Anyone who has been convicted of a felony violation of this section shall not be eligible to be hired or reinstated by a department, board, or authority within the Department of Corrections and Rehabilitation.

(Amended by Stats. 2014, Ch. 71, Sec. 118. (SB 1304) Effective January 1, 2015.)

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