

Sexual Assault Coordinated Community Response Protocol

Table of Contents

Memorandum of Understanding	
Definitions and Guiding Principles	1
SART Summary of Roles	2
Guiding Principles	5
SART Activation Guidelines	7
Forensic Examination Guidelines	8
Sexual Assault Advocate Response	9
Emergency Department Response	12
Law Enforcement Response	13
Sexual Assault Nurse Examiner Response	18
Non-Reported Case	20
All Responders: Follow-up	21
Appendices	
A: SART Contact Information	23
B: Myths and Facts about Sexual Violence	24
C: North Dakota Century Code – Sexual Offenses	26

Sexual Assault Coordinated Community Response Protocol

Definitions and Guiding Principles

It is the understanding and agreement of the Bismarck/Mandan Taskforce on Domestic Violence and Sexual Assault that services for victims of sexual assault ages 14 and older shall be provided in a coordinated, multidisciplinary approach that keeps the victim welfare at the forefront of the community's response.

This coordinated, multidisciplinary team of responders will be known as the

Sexual Assault Response Team

Definitions:

Sexual Assault Response Team

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Team of trained providers that coordinate all services to provide a multidisciplinary response for victims of sexual assault. Team members include law enforcement officer/investigator, sexual assault nurse examiner and sexual assault advocate.

Law Enforcement Officer

This refers to patrol/responding officer and detective/investigator, as each responding Law Enforcement Center has an individual policy regarding who will respond to a report of sexual assault.

Sexual Assault Nurse Examiner

**S
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Licensed Registered Nurse trained in forensic evidence collection.

Sexual Assault Advocate:

Advocate trained in providing crisis intervention and support services to victims of sexual assault.

Coordinated Community Response Members

Bismarck/Mandan has agreed to implement and follow a Coordinated Community Response Protocol for sexual assault. Listed below are basic members and a summary of their role in coordinating the community's response to domestic violence and sexual assault.

Law Enforcement

Operates under the auspices of their own law enforcement agency. Supervision provided by police chief or sheriff, depending upon the law enforcement agency.

- Acknowledges physical and emotional concerns of the survivor
- Interviews victim
- Secures crime scene
- Collects evidence
- Maintains chain of evidence
- Transports all evidence to the State Crime Lab
- Interviews witnesses and alleged assailant
- Sends report to state's attorney
- Testifies in court, when needed

Emergency Physician

Operates under the auspices of their own medical facility.

- Acknowledges physical and emotional concerns of the survivor
- Evaluates victim for injuries that need immediate treatment
- Prescribes medications
- Provides consultation to SANE as needed

Central Dakota SANE (Sexual Assault Nurse Examiner) Program

Independent contractors who provide forensic examination services.

- Acknowledges physical and emotional concerns of the survivor
- Completes the forensic evidence collection and maintains the chain of evidence
- Provides prophylactic STI treatment, pregnancy testing and prevention
- Has the ability and knowledge to provide expert testimony at trial
- Ensures that all appropriate forms and medical supplies are available for examinations
- Commits to an on-call rotation

Medical Director (The Central Dakota SANE Program has Co-Medical Directors)

Operates under the auspices of a medical facility or private practice—MedCenter One and St. Alexius.

- Acknowledges physical and emotional concerns of the survivor
- Approves medical procedures/protocol
- Provides supervision to sexual assault nurse examiner
- Provides case consultation and review

Sexual Assault Advocate

Operates under the auspices of the Abused Adult Resource Center. Supervision provided by Victim Services Director and Executive Director.

- Acknowledges physical and emotional concerns of the survivor
- Provides support, options, information and advocacy during the following:
 - ▶ Forensic exam
 - ▶ Law enforcement interviews
 - ▶ Court proceedings
- Provides information and makes referrals for the following:
 - ▶ Individual counseling
 - ▶ Support groups
 - ▶ Follow-up contact to answer questions
- Provides services and support for secondary victims
- Makes follow-up contact within 24-48 hours of the forensic exam

Prosecutor

Operates under the auspices of their own State's Attorneys Office

- Acknowledges physical and emotional concerns of the survivor
- Consults with investigator, SANE and advocate
- Files charges
- Informs the survivor of reasons for not filing charges
- Prepares witnesses
- Prepares for and conducts all hearings: pre-trial, preliminary, sentencing, etc
- Negotiates plea agreements
- Conducts prosecution during trial

Victim Witness Coordinator

Operates under the auspices of their own County Prosecutor's Office.

- Acknowledges physical and emotional concerns of the survivor
- Assists survivor in understanding the court process/system
- Notifies survivor and their advocate of all court hearings
- Assists prosecuting attorney

Parole and Probation

Operates under the auspices of the North Dakota Department of Corrections and Rehabilitation.

- Provides support to law enforcement conducting the criminal investigation
- Provides information on GPS locations of registered sex offenders
- Assist in attempting to identify perpetrators
- Conducts pre-sentence investigations

Victim Services

Operates under the auspices of the North Dakota Department of Corrections and Rehabilitation.

- Acknowledges physical and emotional concerns of the survivor
- Notifies survivor of parole hearing
- Notifies survivor of release dates

Adapted from:

- Girardin, B., Faugno, D. Color Atlas of Sexual Assault. 97, Mosby, Minneapolis
- Ledray, L., E. Recovering from Rape. 86. New York
- Sane-SART Guide. www.sane-sart.com.

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Definition of Sexual Assault

Any sexual act forced upon another person without his or her consent is to be considered sexual assault. Sexual assault may include the following: a sexual act carried out under coercion, with the threat of force or by using or employing a weapon, through a position of authority, or when the victim/survivor is mentally handicapped or physically impaired (including by reason of drug or alcohol consumption, sleep, unconsciousness, or statutory rape).

Guiding Principles:

- Actions of the first responders on the scene may have a vital impact on the future psychological well-being of the victim. Every effort will be made to relieve victims of feelings of shame or guilt by treating them with dignity and professionalism. This will aid the victim on their road to recovery and help them in regaining self-esteem.
 - Victims need to be approached in a gentle, supportive manner, bearing in mind the physical and psychological damage endured.
 - Victims need to be reassured with appropriate language, such as “I am sorry this happened to you; it’s not your fault.”

- All responders will be trained to understand that sexual assault is about power and control. Responders will also understand the dynamics of sexual assault and its implications for victims. It is important that all responders be trained in understanding the stereotypical beliefs about sexual assault. SART responders will not perpetuate those stereotypes by blaming victims directly or indirectly through comments, questions, and/or procedures

See Addendum B (pages 26-27): Myths and Facts about Sexual Violence

- It is common for victims who have been through a traumatic event to block certain parts of the incident and may remember those details later. Just because some parts of a victim’s story changes does not mean that they are lying. In addition, all responders will be aware of the many reasons a victim may withhold information, including the following:
 - Fear of damaging credibility when alcohol/drugs are involved.
 - Fear that responders won’t believe them when details are remembered later that adds or differs from the original story.
 - Fear of or concern for the offender when the victim and perpetrator know each other.
 - Fear of lack of support from family/friends/community.

- It is important to give victims of sexual assault opportunities to make informed decisions about how they wish to proceed following an assault. This should begin with the victim’s first contact with the SART. A sexual assault Advocate begins this process by explaining advocacy services and offering those services to the victim. However, every step in the process can include choices and decisions for the victim. This is essential in helping a victim recover feelings of control that are lost during the assault.

- ❑ All responders will be trained to understand that sexual assault is a traumatic experience that elicits a variety of emotional responses. Due to the trauma of sexual assault, a victim reaching out for assistance may be in crisis. The victim's behaviors may actually be symptomatic of this condition and can range from hysteria, crying and rage to laughter, calmness and unresponsiveness. There is no single typical reaction, so it is important to refrain from judging or disregarding any victim.
- ❑ It is important that all responders respect a victim's right to anonymity and offer privacy when possible.
- ❑ Victims will be assisted with making an informed decision about reporting and will be encouraged - but not pressured - to report. In addition, when reporting the crime, victims retain the right to cooperate according to what they are emotionally able to handle at any given time. When victims make informed decisions about reporting, they are more likely to cooperate fully with the investigation. Victims also have the option of completing a forensic examination as a "Non-reported Case."
- ❑ It is important for emotional and mental health reasons, to limit the number of times a victim needs to repeat the events of the assault, especially during the crisis phase. At a later point, as a part of their recovery process, the survivor can then tell their story to whomever they choose. To strengthen their ability to cope, advocacy services including crisis intervention and support shall be provided.
- ❑ Conducting a joint interview decreases needless stress on the victim by limiting the number of times they must recount the events of the assault. A joint interview will also improve the consistency of the information documented by law enforcement and the SANE. A joint interview will assist the SANE in identifying areas of potential evidence/injury. The law enforcement representative will lead all interviews. The Advocate will explain their role to the victim and offer emotional support and advocacy services.
- ❑ The goal of interviewing the victim is to obtain the necessary information without further trauma. Responders must create an environment of safety and trust for the victim to feel comfortable to share the intimate details of the incident.
- ❑ A teen reporting sexual assault (including statutory rape), whether delayed or not, requires crisis intervention services due to the delicate nature of emotional issues surrounding disclosure. A vulnerable teen is subject to grooming by a perpetrator that often leads to coerced sexual activity. Without proper services, the incident can result in the following:
 - Affect a teen's future intimate relationships
 - Keep the victim from disclosing to their family due to feelings of fear and/or guilt
 - Cause withdrawal, depression, self mutilation and/or suicidal tendencies to arise
- ❑ A family's response to the disclosure of a sexual assault will have a long-lasting impact on their relationship with their child. By providing immediate rape crisis intervention, families are assisted in getting the emotional support they need as well as education about this type of crime and how they can support their child.
- ❑ Any services provided on school grounds should be coordinated with school personnel.

SART Activation Guidelines

For any sexual assault that meets the definition as established by this Protocol and has occurred within the last 96 hours, the Sexual Assault Response Team shall be activated. Victims will be informed of their options in reporting and completing a forensic exam by an Advocate along with the SART team. The victim will decide how they wish to proceed.

A forensic examination shall be conducted at the victim's request for all sexual assaults reported within the 96-hour timeframe, in which penetration of any bodily cavity has occurred or in cases in which any other type of DNA evidence may be present. This is due to the inclusion of a colposcope for the forensic examination and because of trace evidence that can be collected by the Sexual Assault Nurse Examiner.

For sexual assaults reported beyond the 96-hour period, the SART may still be activated in special circumstances. According to the North Dakota State Protocol, a forensic exam can be done beyond the 96 hours following the assault. Those special circumstances may include, but are not limited to, the following:

- Victims that have not bathed, douched or showered prior to report time.
- History indicates other evidence may still be gathered by the forensic examination including injuries such as bruises or lacerations and taking photographs and bite mark impressions.
- Victim indicates presence of injury, pain or other indication that evidence may still be available.

For those situations that do not meet the special circumstances category and thus do not require a forensic exam, an Advocate and a law enforcement officer will be activated.

- An Advocate will be called out on all sexual assaults to provide emotional support, including delayed reports.

NOTE : Free (STI) treatment may be available within five days of the assault through the Central Dakota SANE program for victims of sexual assault, whether or not they make a report to law enforcement.

- An Advocate can arrange for this treatment through the Central Dakota SANE Program Coordinator who will schedule an appointment for the victim. Please note that the SANE is a mandated reporter and as such this will activate the SART protocol however the victim maintains the option of making a report or not even when they are outside the time frame for a forensic examination.

Forensic Examination Guidelines

It is important that the forensic examination process be thoroughly explained to the victim beforehand to allow the victim time to emotionally prepare. The SANE and the Sexual Assault Advocate should be alert to the victim dissociating or having flashbacks during the examination.

The SANE should also be conscious of whether or not this is the first pelvic examination that the victim has ever had.

Law enforcement will be given a large manila envelope with copies of the following forms that are completed by the Sexual Assault Nurse Examiner, with originals placed in the sealed evidence box:

- Forensic Exam Consent, Authorization for Treatment and Release of Evidence
- Authorization for Use or Disclosure of Protected Health Information Form
- Forensic Evidence Examination: Narrative and Summary of Findings
- A CD with all non-intimate pictures

A copy of the victim's forensic evidence exam record, as well as all intimate photographs, will be contained within the SANE Forensic File (not the patient's medical file at the hospital). All SANE records are kept at Medcenter One SANE room.

NOTE: It is important that interpreter services be provided as needed, for non- English speakers and signing for deaf victims.

Sexual Assault Coordinated Community Response Protocol

Sexual Assault Advocate Response

1. Determine if victim is in immediate danger and/or if emergency medical assistance is needed. If so, contact law enforcement and request an ambulance immediately!
2. If safe and no emergent medical care is needed, define advocacy services and explain your role in relation to Sexual Assault Response Team.
3. If within 96 hours and victim has not yet entered the response system, advise victim of the need to preserve evidence, by not bathing/showering, urination/defecating, washing garments, eating or drinking anything, brushing teeth, combing hair or disturbing anything at the scene, etc.
4. Arrange transportation to and from the hospital.
 - Notify hospital of victim's arrival
 - Contact the Sexual Assault Nurse Examiner
 - Contact appropriate Law Enforcement Center
5. If the victim wants to see an ER physician, has obvious injury or the hospital requires an ER physician to provide a medical screening, the victim will be admitted to the ER and a medical screening will be performed. If the victim declines to see the physician, the victim and Advocate will be moved to begin joint interview and the medical screening will be provided by the SANE.
 - At MedCenter: the victim will be transferred to the SANE room for the joint interview and forensic evidence collection.
 - At St.Alexius: the victim will be taken to adjoining conference room off the emergency department for the joint interview and transferred to the SANE room for forensic evidence collection.
6. In the event that the Victim reports to the hospital: If the Advocate is the first member of the SART to arrive they will speak to the ER staff to make sure Law Enforcement has been contacted.
7. In the event that the Victim reports to the hospital; If the Advocate is the first member of the SART to arrive they will discuss the following with the victim:
 - Explain the role of advocacy in the SART process and offer services.
 - Inquire as to whether or not the victim would like a support person contacted. If they do want someone contacted, ask what information they would like to have disclosed to this person.

8. Once the full SART is present for the joint interview:
 - All responders will introduce themselves and explain their role: law enforcement officer/investigator regarding investigation; the SANE regarding collecting forensic evidence; and the Advocate regarding being a support person and reviewing with the victim the options reporting the crime and completing the forensic examination.
 - The Advocate will discuss with the victim their options in reporting by reviewing with them the brochure "Options in Reporting." The Advocate should make the victim aware of what information is part of the public record in a report and what information remains confidential.
 - If the victim declines making a report, the advocate will explain the option to have a forensic exam without making a police report as a "Non-reported case." During this discussion, the SANE will explain the forensic examination and the victim's right to refuse any part of the process and/or to ask questions at any time.
9. All victims shall be given the opportunity to speak in private with the Victim Advocate to answer any questions they may have and/or determine whether or not they want to report. The Advocate will respond to general questions but questions related to investigation, evidentiary issues or the forensic examination will be directed to the appropriate SART member with the victim's permission.
 - The Advocate will discuss the importance of disclosing the entire history of the incident during the initial interview, as hard as that may be. Remind victims that they are not at fault for what happened, no matter what preceded the assault.
10. When the victim decides to make a report and complete the forensic medical examination, the joint interview will begin. If the victim decides not to report at this time, the forensic medical interview will begin.
11. The law enforcement officer, in conjunction with the SANE, will lead the joint interview. The Advocate will provide advocacy and emotional support during the joint interview. The Advocate will not take notes during the interview nor will they be involved with any collection of forensic evidence. The Advocate will need to clarify with the law enforcement officer about being contacted prior to the victim leaving the hospital.
12. Prior to the forensic evidence collection, the victim should sign all releases for the Advocate/AARC. The AARC Sexual Assault Intake can be completed after the joint interview. Releases can be completed in conjunction with the SANE forms prior to evidence collection.
13. Inquire as to whether or not the victim wants an Advocate to remain in the SANE room during the forensic examination or if they prefer to have the advocate wait outside. During the full body exam, the advocate *will step outside or shut the curtain to provide the victim with privacy.*
14. If secondary victims are present (i.e. parents, spouse, friends, etc), attempt to call out another Advocate to provide services.

15. Offer crisis counseling and referral services, including the following:

- Review Sexual Assault Information Packet.
- Discuss and assist in completing Crime Victims Compensation Application. Have the victim sign form and the Advocate should mail it. Place a copy in their file with date it was mailed.
- Review “Reactions to Sexual Assault.”
- Discuss counseling options and support group.
- Schedule follow-up appointment at the office.
- Complete Safety Plan.
- If significant others are present, review Secondary Victims information; offer advocacy services for secondary victim.
- Assist in arranging transportation from the hospital.

16. Ensure that the victim has the following before leaving:

- Law enforcement officer’s card and/or contact information.
- Sexual Assault Advocate’s card, including AARC Crisis Line number.
- Discharge instructions from SANE and/or emergency department.

Sexual Assault Coordinated Community Response Protocol

Emergency Department Response

1. At the Hospital Emergency Department, the Emergency Department Physician and the Triage Nurse will complete a medical screening if the victim requests to see a physician, if obvious injury warrants a screening or if it is their department policy to do so. If the victim declines to see a physician, the ER will request the victim's name for documentation purposes and refer him/her on to the SANE nurse for further examination.

As a part of that initial exam if the victim requests, the victim will be asked the following questions:

- Where did the assault happen? Determine city or county location to identify appropriate jurisdiction to respond.
 - When did the assault happen? Determine what evidence needs to be collected.
2. To keep within HIPPA regulations, the Emergency Department Nurse will explain to the victim that a specialized team of responders, the Bismarck/Mandan Sexual Assault Response Team (SART), will need to be activated. Identify that the SART consists of a Sexual Assault Nurse Examiner, law enforcement officer and a Sexual Assault Advocate with the Abused Adult Resource Center.
 3. As soon as possible, the Emergency Department will contact both the law enforcement agency where the assault occurred and the Abused Adult Resource Center. The AARC Advocate will activate the SANE.

See Addendum A (page 25): SART Contact Information

4. The Emergency Department Nurse will minimize the possibility of loss or destruction of evidence by taking the following precautions:
 - Ask the victim not to eat, drink, smoke, use the restroom or clean without first informing emergency care personnel.
 - Minimize questions from multiple personnel.
 - Protect confidentiality! Only those staff members directly involved in evidence collection or medical care of the victim needs to be included in any information sharing or discussions.

If drug-facilitated assault is suspected, have the victim wait to use the restroom until SANE arrives, if possible. If not, collect urine with ND Toxicology Kit or sterile container and maintain chain of custody until law enforcement officer arrives. Ask that they not wipe so evidence may be preserved.

5. If the medical screening is completed, the victim will be discharged from the emergency department. Or if the screening will be conducted by the SANE, when at least one member of the SART team has arrived, the patient will be moved to begin joint interview.
 - At MedCenter: the victim may be transferred to the SANE room for the joint interview and forensic evidence collection.
 - At St.Alexius: the victim will be taken to adjoining conference room for the joint interview and transferred to the SANE room for forensic evidence collection.
6. When SANE completes a forensic examination and /or the medical screening, all records completed by the SANE will be transported to the SANE Records Keeper, located at MedCenter One SANE room (per SANE Records Procedure), and will not be retained in the patient's medical file.

Sexual Assault Coordinated Community Response Protocol

Law Enforcement Response

Dispatch

1. Obtain and record reporter's name, address and phone number.
2. Determine if assailant is present, or if weapons present or used during assault.
3. Determine if emergency medical care is needed and, if so, request an ambulance or arrange transportation to hospital.
4. Dispatch officer(s) according to department policy. Keep victim on the line until officer(s) arrive.
5. Advise victim of need to preserve evidence (by not bathing/showering, urinating/defecating, washing garments, eating, or drinking anything, brushing teeth, combing hair, or disturbing anything at the scene, etc.)

Immediate Responding Officer

1. Ask the victim if they want to make a basic initial report or wait till all SART members arrive. If the immediate responding officer will be investigating the case there is no need to take a basic initial report until all SART members are present and reporting options are reviewed with the victim. The victim does not have to cooperate with law enforcement in order to receive a forensic exam (VAWA 2005).
2. In the event that the Victim reports to the hospital; If the Advocate is the first member of the SART to arrive they will discuss the following with the victim:
 - The role of advocacy in the SART process and offer services.
 - Will inquire as to whether or not the victim would like a support person contacted.
3. If the victim wishes, a law enforcement officer will take a basic initial report to determine when and where the assault occurred and whether or not based on the history given by the victim, there is forensic evidence that could be collected. If the victim requests an officer of the same sex, one will be provided if available. If the victim declines to make a report at this time, the officer will come back to collect the evidence if the victim chooses to complete the forensic exam.
 - Assailant information: name and description, relationship between the victim and perpetrator and how long they have known each other
 - When the assault happened
 - Where the assault took place
 - Basics of what happened (to determine penetration of a body cavity and/or other DNA evidence collection potential)

Delayed Reports:

IN ALL DELAYED REPORTS: the Responding Officer will call a Sexual Assault Advocate to assist victims in understanding the support services they can access within the community.

If the assault has occurred beyond the 96 hours, it becomes a delayed report

When the law enforcement officer has determined that there is not a need for forensic evidence collection based on either of the following:

- The assault has occurred beyond the 96-hour time frame and there are not any special circumstances for an exception to this rule;
- Due to the nature of the assault, there is not any forensic evidence to be collected (*generally this will only be in cases where there was just external touching or fondling over the clothes*).

**Some special circumstances may allow this time frame to be over 96 hours.
Please refer back to SART Activation Guidelines (Page 7).**

The Advocate can be contacted at the Abused Adult Resource Center. The Advocate can meet with the victim at the law enforcement center and will generally respond within 30 minutes or less no matter what time of day. If there are time constraints for the law enforcement officer, the Advocate can speak with the victim over the phone.

If the assault has occurred within the last 96 hours and the victim wants to report this crime

When the immediate responding officer determines that the assault occurred within the last 96 hours and forensic evidence should be collected, the officer will do the following:

- **Have the victim determine a hospital of choice**
- **Notify that hospital emergency department**
- **Contact AARC Sexual Assault Advocate, who will dispatch the SANE**

*****See Addendum A (page 25) : SART Contact Information***

4. Secure Crime Scene IMMEDIATELY (if crime was recent).
 - Take photographs of the scene.
 - Collect and impound all physical evidence from the scene, including the following:
 - ✓ Victim's garments or other objects that are stained for semen and blood analysis;
 - ✓ Victim's garments or other objects that are damaged or torn as possible proof of force;
 - ✓ If assault occurred on bed, take the bedding;
 - ✓ Vomit that may provide evidence of drug-facilitated assault; and
 - ✓ Place all clothing and bedding in separate uncontaminated paper sacks/product to avoid contamination and deterioration during transport and storage.
5. When applicable, broadcast a BOLO (Be On the Lookout) message regarding suspect.

6. If the suspect can be identified, check to see if he is on supervised parole or probation. If under supervision with the North Dakota Department of Corrections, contact can be made with suspect's parole/probation officer or the area on-call officer. The Parole and Probation officer can assist law enforcement with background information, locating the suspect or gaining access to area that law enforcement needs to search. (Whenever possible probation search conditions should not be substituted for search warrants.)
7. According to individual law enforcement center's departmental policy, the responding officer may or may not contact a detective/investigator, to conduct the in-depth investigation.

***Bismarck Police Department:** will contact the detective/investigator only if the victim decides to report.

8. Once the full SART is present for the joint interview:
 - All responders will introduce themselves and explain their role: law enforcement officer/investigator regarding investigation; the SANE regarding collecting forensic evidence; and the Advocate regarding being a support person and reviewing with the victim the options reporting the crime and completing the forensic examination.
 - The Advocate will discuss with the victim their options in reporting by reviewing with them the brochure "Options in Reporting." The Advocate should make the victim aware of what information is part of the public record in a report and what information remains confidential.
 - If the victim declines making a report, the advocate will explain the option to have a forensic exam without making a police report as a "Non-reported case." During this discussion, the SANE will explain the forensic examination and the victim's right to refuse any part of the process and/or to ask questions at any time.
9. The victim will then be given time to speak privately with the Advocate to determine whether or not they want to report. All questions will be directed to the appropriate SART member.
10. When the victim determines they want to make a report and complete the forensic medical examination, the joint interview will begin. If the victim decides not to make a report the forensic examination will still go forward per the victim's decision.
11. As early as possible in the reporting process, the law enforcement officer and SANE should assess for the possibility of drug-facilitated sexual assault and, if it is suspected, a urine sample should be collected immediately using a ND Urine Toxicology Kit. The sample will remain frozen until delivery to the ND State Crime Lab.
12. The law enforcement officer, in conjunction with the SANE, will lead the joint interview. If the victim wishes, the Advocate will provide advocacy and emotional support during the joint interview. The advocate will not take notes during the interview, as they are there to provide emotional support. **See following notes:
 - ✓ *At law enforcement discretion the in-depth interview can be conducted the next day if the victim is intoxicated.*
 - ✓ *Law enforcement should make all efforts to exclude a support person when necessary and offer the victim and the support person an explanation.*
 - ✓ *It is especially important that the first person the victim told about the sexual assault be identified and interviewed.*

13. The joint interview may be audio taped upon the discretion of the law enforcement officer. It is recommended that the joint interview be taped rather than doing a follow-up interview solely for the purpose of taping. The victim should be informed of the taping and how the tape might be used in later proceedings.
14. Once the joint interview is completed and all releases/consents are signed for all SART members, the Forensic exam will begin in accordance with ND State Protocol and the SANE Protocol. Officers should not be present in the examining room as the forensic examiner will testify about collection of evidence and the chain of custody. The officer/investigator is to let the Advocate know if they wish to be contacted when the victim is ready to leave the hospital.
15. The officer/investigator will take custody of the sexual assault evidence collection box once the exam is completed. The evidence will be transported to the North Dakota State Crime Lab as soon as possible.
 - If the victim is not reporting the evidence will be housed at the Law Enforcement station in refrigeration for up to seven years from the date of the examination.
 - In a stranger rape case, law enforcement will request expedited DNA.
16. A copy of the following forms should be given to the Officer by the SANE in a manila envelope:
 - Forensic Exam Consent, Authorization for Treatment, and Release of Evidence
 - Authorization for Use or Disclosure of Protected Health Information Form
 - Forensic Evidence Examination: Narrative and Summary of Findings
 - Disk containing non-intimate photographs taken

***The forms should be included as a supplement to the officer's report.*
17. If colposcope pictures of injury are taken, the SANE will review the results with the officer. Evidence of particular importance includes the following:
 - Evidence of fight or flight response on the part of the victim
 - Evidence of genital or non-genital injury
18. For non-reported cases, no investigation will occur and any submitted evidence will be labeled as follows:
 - Name and date of birth on the outside of the kit
 - Individual law enforcement agencies will adopt their own procedures for record keeping.
 - If the victim decides within the seven-year period to report the crime and give his/her name, the law enforcement officer will contact the SANE to obtain a signed release statement (HIPAA) from the victim in order to obtain the evidence from storage.
19. Find and interview suspect, preferably without advance notice, so the suspect will not have time to create oppositional story. If the suspect is unknown, law enforcement shall send the report to DOCR Parole and Probation to compare GPS coordinates of registered sex offenders to the time and location of the crime scene and for parole officers to attempt to identify suspect by description.
20. If arrest is made, examine suspect's clothing and underwear for rips, and blood or semen stains and note their general condition. Examine and photograph any injuries they may have. Also note any statements or admissions by suspect.

21. If arrest is not made, consider the possibility of asking the victim to place a pretext phone call. All consideration for the decision should be based on the victim's emotional state along with their willingness and ability to complete the call. A Victim Advocate should be present whenever possible to offer support.
22. To have a forensic examination completed on a suspect, contact a local hospital emergency room. The SANE program will not provide forensic examinations for suspects. Do not take the suspected perpetrator to the same hospital as the victim.
23. Contact the prosecuting attorney with evidence.
 - If location of assault is on property where victim cannot provide consent, then the prosecuting attorney is to be contacted to obtain a search warrant for evidence from the scene.
 - If a search warrant is needed, it is usually obtained immediately to prevent possible disposing/cleaning of evidence.
24. If a perpetrator is eventually convicted of the offense, a pre-sentence investigation will be completed to determine the likelihood of sexual recidivism and to assist in sentencing. Information that would be helpful in the police report to assist with this process includes the following:
 - Relationship of the victim to the perpetrator and duration of the relationship.
 - Outline of the sexual acts (kissing, fondling, digital or penis penetration, etc.)
 - Location of where all sexual acts took place. (parking lot, home place, etc.)
 - Was the perpetrator on supervision when any of the sexual acts took place? (probation, protection order, or on a bond order)
 - Outline any forced used including intimidation or the victim saying "no."
 - Outline over the last 12 months the perpetrators work history and any chemical dependency problems.
 - Did the perpetrator have any adolescent anti-social behavior?
 - Has the perpetrator been in a committed sexual relationship for more than two years?

Sexual Assault Coordinated Community Response Protocol

Sexual Assault Nurse Examiner Response

1. The SANE will be dispatched by the AARC Advocate to the appropriate Emergency Department.
2. Once at the Emergency Department, the SANE will inquire where the patient is and which SART responders are present. The SANE can, at this time, introduce herself to the patient or wait until all responders have arrived.
3. If the patient decides or is required to see the ER physician, the medical screening will be completed at this time in the ER and then the patient will be discharged from the emergency department. If the patient decides not to see a physician, then the patient will be entered into the ER system per their documentation procedure and wait for at least one member of the SART team to arrive. Then the patient will be moved to begin joint interview and conduct the medical screening.
 - At MedCenter: the patient may be transferred to the SANE room for the joint interview and forensic evidence collection.
 - At St.Alexius: the patient will be taken to adjoining conference room for the joint interview and transferred to the SANE room for forensic evidence collection.
4. It is important to make sure the patient has been discharged from the Emergency Department and given their discharge instructions before moving them for the joint interview if the medical screening was performed in the ER.
5. In the event that the Victim reports to the hospital; If the Advocate is the first member of the SART to arrive they will discuss the following with the victim:
 - The role of advocacy in the SART process and offer services.
 - Will inquire as to whether or not the victim would like a support person contacted
6. Once the full SART is present for the joint interview:
 - All responders will introduce themselves and explain their role. Law Enforcement Officer/Investigator will explain their role related to the investigation. The SANE will discuss their role in collecting forensic evidence. The Advocate will discuss their role as a support person and then review with the victim their options reporting the crime and completing the forensic examination.
 - The Advocate will discuss with the victim their options in reporting by reviewing with them the brochure "Options in Reporting." The Advocate should make the victim aware of what information is part of the public record in a report and what information remains confidential.
 - If the victim declines making a report, the advocate will explain the option to have a forensic exam without making a police report as a "Non-reported case." During this discussion, the SANE will explain the forensic examination and the victim's right to refuse any part of the process and/or to ask questions at any time.
7. The victim will then be given time to speak privately with the Advocate to determine whether or not they want to report. All questions will be directed to the appropriate SART member.

8. When the patient determines they want to make a report and complete the forensic medical examination, the joint interview will begin. If the patient does not want to report at this time but wants to have evidence collected, then only the forensic examination will take place
9. The law enforcement officer, in conjunction with the SANE, will lead the joint interview. If the victim wishes, the Advocate will provide advocacy and emotional support during the joint interview. The Advocate will not take notes during the interview, as they are there to provide emotional support.
10. Once the joint interview is completed and all releases/consents for all SART members are signed, the forensic exam will begin in accordance with ND State Protocol and the SANE Protocol.
11. Examine all clothing worn by the victim at the time of the assault for rips, tears or other damage and for any other forensic evidence. Document clothing condition and collect appropriate items. If no evidence is noted, only clothing in direct contact with the victim's genital area will be collected.
12. Document and photograph all injuries using a camera and/or colposcope.
 - All pictures of injuries to intimate body parts will be documented on the Narrative and Summary of Findings Form and maintained in the SANE Forensic File.
 - All pictures from the colposcope will be on a CD and maintained in the SANE Forensic File.
 - All pictures of injuries to non-intimate body parts will be maintained as follows and turned over to law enforcement:
 - *Document* on the Narrative and Summary of Findings Form
 - Attach to the OUTSIDE of the evidence collection box in an envelope.
 - All pictures will be identified with the patient's name and date.
 - When possible, injuries should be measured with a gray-scale ruler to indicate size of the injury.
 - Offer to review photographs with law enforcement officer.
13. Offer the patient prophylactic treatment to prevent the contraction of two sexually transmitted infections, gonorrhea and chlamydia, as a result of the assault. Recommend follow-up and testing for other sexually transmitted infections.
14. Inform the patient the options available for the prevention of possible pregnancy resulting from the assault.
15. All patients will be provided with discharge information including recommendations for follow-up medical care and testing.
16. A copy of the following forms should be given to the investigator prior to being sealed into the evidence box:
 - Forensic Exam Consent, Authorization for Treatment and Release of Evidence
 - Authorization for Use or Disclosure of Protected Health Information
 - Forensic Evidence Examination: Narrative and Summary of Findings
17. The chain of custody will be followed from the time the evidence box is opened until it is sealed and turned over to law enforcement.

Non-Reported Case

Evidence may be collected in the event that the victim does not want to disclose details of the assault at this time, but still wishes to have a forensic exam.

1. Law enforcement will not be involved in the interview process but dependent upon jurisdiction responding the officer may be required to ask to hear the refusal to report directly from the victim.
2. *Even though a basic initial report may have been taken, if the victim decides not to report, the situation will be handled as a non-report.*
3. For non-reported cases, no investigation will occur and any submitted evidence will be labeled as follows:
 - Name and date of birth on the outside of the kit
 - Individual law enforcement agencies will adopt their own procedures for anonymous record keeping (no identifying information will be documented in a police report—this includes an initial report)
4. If the victim decides within the seven-year period to report the crime and give his/her name, the law enforcement officer will contact the SANE to obtain a signed release statement (HIPAA) from the victim in order to obtain the evidence from storage.
5. SANE will conduct a brief forensic interview and determine jurisdiction.
 - If the victim wishes, the Advocate will provide advocacy and emotional support during the interview.
6. Forensic exam will be conducted as in steps 9-13 above.
7. **The following identifying forms will be sealed into the evidence box:**
 - **Forensic Exam Consent, Authorization for Treatment and Release of Evidence.**
 - **Forensic Evidence Examination: Narrative and Summary of Findings.**
 - **Appendix C- Authorization for Treatment and Release of Evidence must be completed, but will only be used for billing/reimbursement purposes.**
8. SANE will maintain a file copy of all forms involved in the Forensic Evidence Collection.
9. **SANE will put the victim name and date of birth on the outside of the kit.**
10. The chain of custody will be followed from the time the evidence box is opened until it is sealed and turned over to law enforcement.
 - Once exam is completed, SANE will contact law enforcement, who will then collect the evidence and log into storage.
 - Evidence will be stored at law enforcement agency for seven years.
 - In the event that a victim returns to report, they will be referred to law enforcement.
 - ❑ **The Advocate will be contacted to provide advocacy and emotional support during any follow up with SANE or Law Enforcement.**

Sexual Assault Coordinated Community Response Protocol

All Responders: Follow-up

Law Enforcement

1. Notify the victim when suspect is taken into custody and keep updated with any changes in that status. The Sexual Assault Advocate can be used to assist.
2. Maintain interagency communication and continue to network with the Sexual Assault Advocate. Through ongoing support services, Advocates can provide emotional support to victims, leaving law enforcement more time to focus on the case.
 - When a Sexual Assault Advocate is present for further interviews, line-ups and hearings, it helps to ensure that the victim will have the assistance they need in dealing with their emotions prior to and following those instances.
 - The Sexual Assault Advocate can assist the law enforcement officer with setting up follow-up appointments.

SANE

1. The SANE will generally not have follow-up contact with a victim, as their primary role is that of forensic evidence collection. The SANE will ensure that appropriate discharge instructions are given prior to discharge from the SANE program.
2. If the victim is experiencing too much pain and swelling to conduct the internal genital exam, the SANE will attempt to schedule a follow-up examination. The SANE will report any new findings to the law enforcement officer and provide them with any documentation of the follow-up exam.

Sexual Assault Advocate

1. Make follow-up contact with the victim within 24-48 hours following the report of the assault.
2. Continue providing services through the follow-up investigation and any court proceedings. Cooperative networking with the state's attorney's office as well as the Victim Witness Coordinator is essential in the provision of follow-up advocacy services.

North Dakota Parole/Probation:

1. Work with Victim Witness Coordinator in gathering victim impact statement for pre-sentence investigation.
2. Give victim Department of Corrections and Rehabilitation contact information for future criminal justice system questions and so the victim can contact the perpetrator's Probation Officer.

Prosecution

1. Issue search warrants as needed according to interpretation of the investigative findings and other legal necessities.
2. Discuss with law enforcement officer any further evidence that may be needed to move forward with prosecution.
3. Review evidence provided by the officer and SANE and then makes a determination on whether to proceed with prosecution.
4. Maintain interagency communication with the Victim Witness Coordinator so they can prepare the victim emotionally, and then make appropriate follow-up contact with the victim, keeping communication lines open.
5. Advise Victim Witness Coordinator of case status so they can make follow-up contact with the victim and the Sexual Assault Advocate.
6. Prosecution should call to the alert the investigating officer of any plea bargains.
7. **If the case is not prosecuted, the prosecutor will call the victim to explain why the case did not go forward.**

Victim Witness Coordinator

1. Maintain open communication with the victim, prosecutor's office, and the Sexual Assault Advocate.
2. Be available to the victim during any meetings with the prosecutor.
3. Explain and supply the victim with a Victim Impact Statement.
4. Assist the victim with any employer intervention that may be necessary.
5. Provide notice and/or accompany the victim to any court proceedings to provide support and explain the criminal justice process.
6. Assist the victim with recovery of evidence following court proceedings (clothing, etc.).
7. Provide and review the "Victim Service Brochure" for post-sentencing guidelines/issues with the victim.

Victim Service's Role:

1. Notify survivor of parole hearing
2. Notify survivor of release dates

ADDENDUM A:

***Sexual Assault Response Team:
Contact Information***

AARC Sexual Assault Advocate can be reached at:

222-8370	AARC Office Monday – Friday / 8:00 – 4:00
226-0868	<i>AARC Sexual Assault On-Call Cell Phone After 4:00 Weekdays / Weekends</i>
1-866-341-7009	AARC Crisis Line 24 hours a day/7 day a week
<hr/>	
223-1212	Bismarck Police Department
667-3250	Mandan Police Department
222-6651	Burleigh County Sheriff’s Department
667-3330	Morton County Sheriff’s Department
701-854-7241	Bureau of Indian Affairs
701-223-4875	Federal Bureau of Investigations
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323-6150	Medcenter One Emergency
530-7001	St. Alexius Emergency

ADDENDUM B:

MYTHS AND FACTS ABOUT SEXUAL VIOLENCE

MYTH: *Victims provoke sexual assaults when they dress provocatively or act in a promiscuous manner.*

FACT: Rape and sexual assault are crimes of violence and control that stem from a person's determination to exercise power over another. Neither provocative dress nor promiscuous behaviors are invitations for unwanted sexual activity. Forcing someone to engage in non-consensual sexual activity is sexual assault; regardless of the way the person dresses or acts.

MYTH: *If a person goes to someone's room or house or goes to a bar, she assumes the risk of sexual assault. If something happens later, she can't claim that she was raped or sexually assaulted because she should have known not to go to those places.*

FACT: This "assumption of risk" wrongfully places the responsibility of the offender's actions with the victim. Even if a person went voluntarily to someone's residence or room and consented to engage in some sexual activity, it does not serve as blanket consent for all sexual activity. If a person is unsure about whether the other person is comfortable with an elevated level of sexual activity, the person should stop and ask. When someone says "NO" or "STOP", that means STOP. YES means YES...anything else means NO. Sexual activity forced upon another without consent is sexual assault.

MYTH: *It's not sexual assault if it happens after drinking or taking drugs.*

FACT: Being under the influence of alcohol or drugs is not an invitation for non-consensual sexual activity. A person under the influence of drugs or alcohol does not cause others to assault her; others choose to take advantage of the situation and sexually assault her because she is in a vulnerable position. Many state laws hold that a person who is cognitively impaired due to the influence of drugs or alcohol is not able to consent to sexual activity. The act of an offender who deliberately uses alcohol as a means to subdue someone in order to engage in non-consensual sexual activity is also a criminal.

MYTH: *Most sexual assaults are committed by strangers.*

FACT: Most sexual assaults are committed by someone the victim knows. Sexual assault can be committed within any type of relationship, including marriage, dating relationships or by friends, acquaintances and co-workers. Sexual assault can occur in heterosexual or same-gender relationships. It does not matter whether there is a current or past relationship between the victim and the offender; unwanted sexual activity is still sexual assault and is a serious crime.

MYTH: *A person who has really been sexually assaulted will be hysterical.*

FACT: Victims of sexual assault exhibit a spectrum of responses to the assault, which can include calm, hysteria, withdrawal, anger, apathy, denial and shock. Being sexually assaulted is a very traumatic experience. Reactions to the assault and the length of time needed to process through the experience vary with each person. There is no "right way" to react to being sexually assaulted. Assumptions about a way a victim "should act" may be detrimental to the victim because each victim copes with the trauma of the assault in different ways.

MYTH: *All sexual assault victims will report the crime immediately to the police. If they do not report it or delay in reporting it, then they must have changed their mind after it happened, wanted revenge, or didn't want to look like they were sexually active.*

FACT: There are many reasons why a sexual assault victim may not report the assault to the police. It is not easy to talk about being sexually assaulted. The experience of re-telling what happened may cause the person to relive the trauma. Other reasons for not immediately reporting the assault or not reporting it at all may include the following: fear of retaliation by the offender, fear of not being believed, fear of being blamed for the assault, fear of being re-victimized if the case goes through the criminal justice system, belief that the offender will not be held accountable, wanting to forget the assault ever happened, not recognizing that what happened was sexual assault, shame, and/or shock. In fact, reporting a sexual assault incident to the police is the exception and not the norm. Because a person did not immediately report an assault or chooses not to report it at all, does not mean that the assault did not happen.

Victims can report a sexual assault to criminal justice authorities at any time, whether it is immediately after the assault or within weeks, months or even years after the assault. Criminal justice authorities can move forward with a criminal case, so long as the incident is reported within the jurisdiction's statute of limitations. Statutes of limitations provide for the time period in which criminal justice authorities can charge an individual with a crime for a particular incident. In North Dakota, the statute of limitations varies depending on the degree of the charge.

MYTH: *It is only rape if the victim puts up a fight and resists or if a weapon is involved.*

FACT: Many states do not require a victim to resist in order to charge the offender with rape or sexual assault. In addition, there are many reasons why a victim would not fight or resist her attacker. She may feel that fighting or resisting will make her attacker angry, resulting in more severe injury. She may not fight or resist as a coping mechanism for dealing with the trauma of being sexually assaulted. Many law enforcement experts say that victims should trust their instincts and intuition and do what they think is most likely to keep them alive. Not fighting or resisting an attack does not equal consent. It may mean it was the best way she knew how to protect herself from further injury.

In many cases of sexual assault, a weapon is not involved. The offender often uses physical strength, physical violence, intimidation, threats, coercion or a combination of these tactics to overpower the victim. As already pointed out, most sexual assaults are perpetrated by someone known to the victim. An offender uses the victim's trust developed through their relationship to create an opportunity to commit the sexual assault. In addition, the offender may have intimate knowledge about the victim's life, including where she lives, where she works, where she goes to school, or information about her family or friends. This enhances the credibility of any threats made by the offender since he has the knowledge about her life to carry them out. Although the presence of a weapon while committing the assault may result in a higher penalty or criminal charge, the absence of a weapon does not mean that the offender cannot be held criminally responsible for a sexual assault.

Rape is an act of violence, power, control and humiliation where sex is the chosen weapon.

*Adapted from: [Myths and Facts about Sexual Violence](#) – Office on Violence Against Women

ADDENDUM C:
CHAPTER 12.1-20 SEX OFFENSES

12.1-20-01. General provisions. In sections 12.1-20-03 through 12.1-20-08:

1. When the criminality of conduct depends on a child's being below the age of fifteen, it is no defense that the actor did not know the child's age, or reasonably believed the child to be older than fourteen.
2. When criminality depends on the victim being a minor, it is an affirmative defense that the actor reasonably believed the victim to be an adult.
3. When criminality depends on the victim being a minor fifteen years of age or older, the actor is guilty of an offense only if the actor is at least three years older than the minor.

12.1-20-02. Definitions. In sections 12.1-20-03 through 12.1-20-12:

1. "Deviate sexual act" means any form of sexual contact with an animal, bird, or dead person.
2. "Object" means anything used in commission of a sexual act other than the person of the actor.
3. "Sexual act" means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or vulva; or the use of an object which comes in contact with the victim's anus, vulva, or penis. For the purposes of this subsection, sexual contact between the penis and the vulva, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
4. "Sexual contact" means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.

12.1-20-03. Gross sexual imposition - Penalty.

1. A person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of an offense if:
 - a. That person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being;
 - b. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined in chapter 19-03.1, or other means with intent to prevent resistance;
 - c. That person knows that the victim is unaware that a sexual act is being committed upon him or her;
 - d. The victim is less than fifteen years old; or Page No. 1
 - e. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders him or her incapable of understanding the nature of his or her conduct.
2. A person who engages in sexual contact with another, or who causes another to engage in sexual contact, is guilty of an offense if:
 - a. The victim is less than fifteen years old;
 - b. That person compels the victim to submit by force or by threat of imminent death, serious bodily injury, or kidnapping, to be inflicted on any human being; or
 - c. That person knows that the victim is unaware that sexual contact is being committed on the victim.

3. An offense under this section is a class AA felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, if the actor's conduct violates subdivision a of subsection 1, or if the actor's conduct violates subdivision d of subsection 1 and the actor was at least twenty-two years of age at the time of the offense. For any conviction of a class AA felony under subdivision a of subsection 1, the court shall impose a minimum sentence of twenty years' imprisonment, with probation supervision to follow the incarceration. The court may deviate from the mandatory sentence if the court finds that the sentence would impose a manifest injustice as defined in section 39-01-01 and the defendant has accepted responsibility for the crime or cooperated with law enforcement. However, a defendant convicted of a class AA felony under this section may not be sentenced to serve less than five years of incarceration.
 - b. Otherwise the offense is a class A felony.
4. If, as a result of injuries sustained during the course of an offense under this section, the victim dies, the offense is a class AA felony, for which the maximum penalty of life imprisonment without parole must be imposed.

12.1-20-03.1. Continuous sexual abuse of a child.

1. An individual in adult court is guilty of an offense if the individual engages in any combination of three or more sexual acts or sexual contacts with a minor under the age of fifteen years during a period of three or more months. The offense is a class AA felony if the actor was at least twenty-two years of age at the time of the offense. Otherwise, the offense is a class A felony. The court may not defer imposition of sentence.
2. If more than three sexual acts or contacts are alleged, a jury must unanimously agree that any combination of three or more acts or contacts occurred. The jury does not need to unanimously agree which three acts or contacts occurred.
3. No other felony offense under this chapter 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, but a separate count may be charged for each victim if more than one victim is involved.

12.1-20-04. Sexual imposition.

A person who engages in a sexual act or sexual contact with another, or who causes another to engage in a sexual act or sexual contact, is guilty of a class B felony if the actor: Page No. 2

1. Compels the other person to submit by any threat that would render a person of reasonable firmness incapable of resisting; or
2. Engages in a sexual act or sexual contact with another, whether consensual or not, as part of an induction, initiation, ceremony, pledge, hazing, or qualification to become a member or an associate of any criminal street gang as defined in section 12.1-06.2-01.

12.1-20-05. Corruption or solicitation of minors.

1. An adult who engages in, solicits with the intent to engage in, or causes another to engage in a sexual act with a minor, is guilty of a class A misdemeanor if the victim is a minor fifteen years of age or older.
2. An adult who solicits with the intent to engage in a sexual act with a minor under age fifteen or engages in or causes another to engage in a sexual act when the adult is at least twenty-two years of age and the victim is a minor fifteen years of age or older, is guilty of a class C felony.
3. An adult who commits a violation of subsection 1 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class C felony. An adult who commits a violation of subsection 2 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class B felony.

12.1-20-05.1. Luring minors by computer or other electronic means.

1. An adult is guilty of luring minors by computer or other electronic means when:
 - a. The adult knows the character and content of a communication that, in whole or in part, implicitly or explicitly discusses or depicts actual or simulated nudity, sexual acts, sexual contact, sadomasochistic abuse, or other sexual performances and uses any computer communication system or other electronic means that allows the input, output, examination, or transfer of data or programs from one computer or electronic device to another to initiate or engage in such communication with a person the adult believes to be a minor; and
 - b. By means of that communication the adult importunes, invites, or induces a person the adult believes to be a minor to engage in sexual acts or to have sexual contact with the adult, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for the adult's benefit, satisfaction, lust, passions, or sexual desires.
2. A violation of this section is a class A misdemeanor if the adult is less than twenty-two years of age and reasonably believes the minor is age fifteen to seventeen. If the adult is less than twenty-two years of age and reasonably believes the minor is under age fifteen, or the adult is twenty-two years of age or older and the adult reasonably believes the minor is age fifteen to seventeen, violation of this section is a class C felony. If the adult is twenty-two years of age or older and the adult reasonably believes the minor is under the age of fifteen, violation of this section is a class B felony. The court shall sentence an adult convicted of a class B or class C felony under this section to serve a term of imprisonment of at least one year, except the court may sentence an individual to less than one year if the individual did not take a substantial step toward meeting with the minor.
3. The attorney general may issue an administrative subpoena compelling an internet service provider or cellular phone company to provide subscriber information to a law enforcement agency investigating a possible violation of this section. Page No. 3

12.1-20-06. Sexual abuse of wards.

A person who engages in a sexual act with another person, or any person who causes another to engage in a sexual act is guilty of a class C felony if the other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over the other person.

12.1-20-06.1. Sexual exploitation by therapist - Definitions - Penalty.

Any person who is or who holds oneself out to be a therapist and who intentionally has sexual contact, as defined in section 12.1-20-02, with a patient or client during any treatment, consultation, interview, or examination is guilty of a class C felony. Consent by the complainant is not a defense under this section. A complaint of a violation of this section may be made to the police department of the city in which the violation occurred the sheriff of the county in which the violation occurred, or the bureau of criminal investigation. Local law enforcement agencies and the bureau of criminal investigation shall cooperate in investigations of violations of this section. As used in this section, unless the context or subject matter otherwise requires:

1. "Psychotherapy" means the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction.
2. "Therapist" means a physician, psychologist, psychiatrist, social worker, nurse, chemical dependency counselor, member of the clergy, or other person, whether licensed or not by the state, who performs or purports to perform psychotherapy.

12.1-20-07. Sexual assault.

1. A person who knowingly has sexual contact with another person, or who causes another person to have sexual contact with that person, is guilty of an offense if:
 - a. That person knows or has reasonable cause to believe that the contact is offensive to the other person;
 - b. That person knows or has reasonable cause to believe that the other person suffers from a mental disease or defect which renders that other person incapable of understanding the nature of that other person's conduct;
 - c. That person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct, by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined in chapter 19-03.1, or other means for the purpose of preventing resistance;
 - d. The other person is in official custody or detained in a hospital, prison, or other institution and the actor has supervisory or disciplinary authority over that other person;
 - e. The other person is a minor, fifteen years of age or older, and the actor is the other person's parent, guardian, or is otherwise responsible for general supervision of the other person's welfare; or
 - f. The other person is a minor, fifteen years of age or older, and the actor is an adult.
2. The offense is a class C felony if the actor's conduct violates subdivision b, c, d, or e of subsection 1, or subdivision f of subsection 1 if the adult is at least twenty-two years of age, a class A misdemeanor if the actor's conduct violates subdivision f of subsection 1 if the adult is at least eighteen years of age and not twenty-two years of age or older, or a class B misdemeanor if the actor's conduct violates subdivision a of subsection 1. Page No. 4

12.1-20-08. Fornication.

An individual is guilty of a class A misdemeanor if the individual engages in a sexual act in a public place. A minor engaging in a sexual act is guilty of a class B misdemeanor, unless that sexual act was committed against the minor in violation of sections 12.1-20-01 through 12.1-20-07.

12.1-20-09. Adultery.

1. A married person is guilty of a class A misdemeanor if he or she engages in a sexual act with another person who is not his or her spouse.
2. No prosecution shall be instituted under this section except on the complaint of the spouse of the alleged offender, and the prosecution shall not be commenced later than one year from commission of the offense.
3. The court shall grant immunity from prosecution under this section to a person subject to prosecution under this section who, as part of a divorce, annulment, or separation proceeding, provides information regarding sexual acts with another person.

12.1-20-10. Unlawful cohabitation.

Repealed by S.L. 2007, ch. 131, § 4.

12.1-20-11. Incest.

A person who intermarries, cohabits, or engages in a sexual act with another person related to him within a degree of consanguinity within which marriages are declared incestuous and void by section 14-03-03, knowing such other person to be within said degree of relationship, is guilty of a class C felony.

12.1-20-12. Deviate sexual act.

A person who performs a deviate sexual act with the intent to arouse or gratify his sexual desire is guilty of a class A misdemeanor.

12.1-20-12.1. Indecent exposure.

1. A person, with intent to arouse, appeal to, or gratify that person's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that person:
 - a. Masturbates in a public place or in the presence of a minor; or
 - b. Exposes one's penis, vulva, or anus in a public place or to a minor in a public or private place.
2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.2, or after being required to register under section 12.1-32-15.
3. A person who commits a violation of subsection 1 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class C felony. A person who commits a violation of subsection 2 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class B felony.

12.1-20-12.2. Surreptitious intrusion.

1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that individual does any of the following:
 - a. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another. Page No. 5
 - b. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another.
 - c. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously gazes, stares, or peeps in the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.
 - d. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.
2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.1, or after being required to register under section 12.1-32-15.

12.1-20-13. Bigamy.

1. A person who marries another person, while married to another person, is guilty of a class C felony.
2. Subsection 1 does not extend to:
 - a. A person whose spouse has been absent for five successive years and is believed by him or her to be dead.
 - b. A person whose spouse has voluntarily absented himself and has continually remained without the United States for the space of five successive years.
 - c. A person whose former marriage has been pronounced void, null, or dissolved by the judgment of a competent court.

12.1-20-14. Admissibility of evidence concerning reputation of complaining witness - Gross sexual imposition and sexual imposition.

Superseded by N.D.R.Ev. 412.

12.1-20-15. Credibility of complaining witness attacked - Procedure.

Superseded by N.D.R.Ev. 412.

12.1-20-15.1. Admissibility of evidence of victim's manner of dress in sex offense cases.

Superseded by N.D.R.Ev. 412.

12.1-20-16. Appointment of a guardian ad litem in prosecution for sex offenses.

A minor or a person with a developmental disability who is a material or prosecuting witness in a criminal proceeding involving an act in violation of sections 12.1-20-01 through 12.1-20-08, or section 12.1-20-11 may, at the discretion of the district court, have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from the violation. The appointment may be made upon the order of the court on its own motion or at the request of a party to the action. The guardian ad litem may, but need not, be a licensed attorney and must be designated by the court after due consideration is given to the desires and needs of the minor or the person with a developmental disability. A person who is also a material witness or prosecuting witness in the same proceeding may not be designated guardian ad litem. The Page No. 6 guardian ad litem must receive notice of and may attend all depositions, hearings, and trial proceedings to support the minor or the person with a developmental disability and advocate for the protection of the minor or the person with a developmental disability but may not separately introduce evidence or directly examine or cross-examine witnesses. The expenses of the guardian ad litem, when approved by the judge, must be paid by the supreme court. The state shall also pay the expenses of the guardian ad litem in commitment proceedings held in district court pursuant to chapter 25-03.1.

12.1-20-17. Transfer of body fluid that may contain the human immunodeficiency virus - Definitions - Defenses - Penalty.

1. As used in this section, unless the context otherwise requires:
 - a. "Body fluid" means semen, irrespective of the presence of spermatozoa; blood; or vaginal secretion.
 - b. "Transfer" means to engage in sexual activity by genital-genital contact, oral-genital contact, or anal-genital contact, or to permit the reuse of a hypodermic syringe, needle, or similar device without sterilization.
2. A person who, knowing that that person is or has been afflicted with acquired immune deficiency syndrome, afflicted with acquired immune deficiency syndrome related complexes, or infected with the human immunodeficiency virus, willfully transfers any of that person's body fluid to another person is guilty of a class A felony.
3. It is an affirmative defense to a prosecution under this section that if the transfer was by sexual activity, the sexual activity took place between consenting adults after full disclosure of the risk of such activity and with the use of an appropriate prophylactic device.

12.1-20-18. Definitions.

Repealed by S.L. 1993, ch. 129, § 5.

12.1-20-19. Release of sexual offender from place of confinement - Duties of official in charge.

Repealed by S.L. 1993, ch. 129, § 5.

12.1-20-20. Duty to register.

Repealed by S.L. 1993, ch. 129, § 5.

12.1-20-21. Change of address - Duty to inform.

Repealed by S.L. 1993, ch. 129, § 5.

12.1-20-22. Duration of registration.

Repealed by S.L. 1993, ch. 129, § 5.

12.1-20-23. Penalty.

Repealed by S.L. 1993, ch. 129, § 5.

12.1-20-24. Facilitation of sexual acts in public.

1. As used in this section:
 - a. "Adult entertainment center" means any commercial facility at which motion pictures or videos that include explicit representations of sexual conduct are offered for viewing at that facility, but does not include the guest rooms of a hotel or motel.
 - b. "Sexual act" has the meaning prescribed in section 12.1-20-02.
 - c. "Sexual conduct" has the meaning prescribed in section 12.1-27.1-01.
2. It is an infraction for a person to willfully own, rent, lease, manage, or exercise control of any portion of an adult entertainment center if that portion contains: Page No. 7
 - a. Any partition between subdivisions of a room or area that has an opening that facilitates a sexual act between individuals on either side of the partition; or
 - b. A room, booth, stall, or partitioned portion of a room offered to individuals for a fee as an incident to viewing a video, motion picture, or similar entertainment, unless the room, booth, stall, or partitioned portion of the room has:
 - (1) At least one side open to an adjacent public space so that the area inside is visible to individuals in the adjacent public space; and (2) The viewing area is lighted in a manner that the persons in that area are visible from the adjacent public space.
3. This section does not apply to an enclosure that is a private office space used by the owner, manager, or employees of the adult entertainment center if that office space is not held out or available to the public for the purpose of viewing a video, motion picture, or similar entertainment for a fee.
4. The state department of health or the state's attorney having jurisdiction may bring an action to enjoin a pattern of violations of this section.

12.1-20-25. Sexual offender presence near schools prohibited.

1. Except for purposes of voting in a school building used as a public polling place or attending an open meeting under chapter 44-04 in a school building, a sexual offender, as defined in section 12.1-32-15, who has pled guilty or been found guilty of or has been adjudicated delinquent of a class A misdemeanor or felony sexual offense against a minor or is required to register under section 12.1-32-15 or equivalent law of another state may not knowingly enter upon the real property comprising a public or nonpublic elementary, middle, or high school unless provided by this section or allowed on school property through compliance with a written policy adopted by the school board of a public school or governing body of a nonpublic school. The school board or governing body shall provide a copy of the policy to local law enforcement upon request.
2. If a school board or a governing body does not have a written policy on sexual offenders on school property, subsection 1 does not apply under the following circumstances:
 - a. The offender is a parent or guardian of a student attending the school and the offender, with the written permission of the school board or governing body of the school, or designee of the board or body, is attending a conference at the school with school personnel to discuss the progress of the student academically or socially, participating in a child review conference in which evaluation and placement decisions may be made regarding special education services, or attending a conference to discuss other student issues, including retention and promotion.
 - b. The offender is a parent, guardian, or relative of a student attending or participating in a function at the school and the offender has requested advance permission from the school board or governing body, or designee of the board or body, and received permission allowing the offender's presence at the school function.
 - c. The offender is a student at the school with the written permission of the school board or governing body, or designee of the board or body. Page No. 8
 - d. The school board or governing body, or designee of the board or body, allows the offender on school property under other circumstances on a case-by-case basis.
3. An individual who violates this section is guilty of a class A misdemeanor. Page No. 9