

## Adolescent Guidelines

SART Listserv

February 2007

**Issue:** Specific guidelines/ protocol for adolescent victims

**Background:** Do adolescent victims receive assistance through child abuse advocacy centers (CAC) or SARTs? How do other communities respond to an underage but consensual sexual relationship when parents insist on forensic examinations?

### Alaska:

- The SART sees patients 12 years and up.
- The CAC sees patients 18 years and under.
- Law enforcement usually makes the decision on a case by case basis as to which facility they use.

### Maryland:

- Mandated reporting regarding suspected child abuse (including sexual abuse) relates only to reporting those situations involving family/household members, guardians, or those in a care-taking role with the child.
- There are criminal statutes involving underage consensual sexual relationships and parents can speak to the police.

### Michigan

- Michigan law states that sexual relations between any age partner and an individual under 16 is a crime. Individuals under 16 years of age cannot give legal consent.
- The prosecutor is unlikely to pursue criminal charges if both partners willingly consented unless one of the individuals involved is over 13 years.
- A licensed health professional (SANE) is required to report child abuse to Child Protective Services. Some parents will demand an investigation, even though CPS is unlikely to pursue it.
- To add another dimension, Michigan law also states that sexually-related diagnosis, treatment, referral and follow up are confidential services that an adolescent may pursue independent of parental knowledge and/or consent. This law can cause blurred lines for responders and supports the need for SARTs to proactively address issues between agencies.
- Background Information:
  - Child Protection Law - section 3 - lists professions that are mandated reporters (this would include nurses, doctors, physician's assistant, emergency care licensed provider, social worker, social work tech, etc.
  - It indicates that they are required to report if they have "reasonable cause to suspect child abuse or neglect..." The definition of "child abuse" includes "harm or threatened harm to a child's

health or welfare that occurs through non-accidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child's health or welfare..." CPS needs to know if the child under 16 years was perpetrated by a "responsible person" (a long definition which may include non-household members who have a close personal relationship with the child due to a close relationship with a parent or guardian). Also, if the caretaker neglected the child by allowing a relationship between the child and the perpetrator where the caretaker should have known the risk of the relationship and allowed it.

- When a 13-16 year old is having consensual sex with an older individual and wants that to be confidential, but the parent wants the exam and prosecution, I don't think the child has much legal standing. The parent has the right to pursue medical treatment for their child. I question however, how does the health dept. deal with children under age of 16 years who request birth control and admit to being sexually active? It is illegal for them to "choose" to be sexually active prior to the age of consent? Are they turned away by the health dept.? Remember that CPS substantiations are quite different from criminal prosecutions. I would argue that any child under the age of consent - 16 years- who is sexually active is sexually abused by definition that they are not of age to consent. In practice, the age of the "victim" and "perpetrator" as well as willingness come into play regarding prosecution decisions. CPS has to look at the bigger picture of protection to the child.

## **New Jersey**

- NJ has a prosecutor's office based program. While we do our best to protect confidentiality, etc, it is incumbent upon medical staff, including SANEs, to follow the state's child protective services reporting requirements.
- Our CPS does not get involved in non-familial, non-supervisory abuse/assault.
- CPS is called for all familial cases involving children under 13.
- If CPS is called about two teens who aren't related, they do not view it as their jurisdiction.
- The SANEs will never do an exam without the patient's consent. The parents and law enforcement can insist, but it will not be done.

## **Ohio (Cleveland)**

- We will not do an exam on an adolescent who states the act was consensual, unless s/he is under 12 and meets the specific criteria in our state protocol.
- The exam is only going to prove that the teenager had sex with the person that s/he consented with.
- If parents want to file a police report and the minor is of consenting age (16 or older) they are referred to the appropriate police department to file a report.
- Department of Family and Children's Services (DCFS) may be able to supply support services to the family after they assess the situation.
- In Ohio, anyone who has knowledge of a felony that has been committed is required to report to law enforcement.
- Our statute regarding unlawful sexual conduct with a minor can be a felony.

## **Texas**

- For our community-based SANE/SART program, we allow individual agencies/programs to use their existing reporting guidelines.
- All agencies involved (except the non-hospital based nurses, SANEs) have specific reporting policies in place.
- The SANEs report any sexual or suspected sexual contact of anyone that is not yet 17. Seventeen is the age of consent in Texas.
- Regarding parents insisting on forensic exams, a forensic exam is something that law enforcement may or may not authorize AFTER a crime is reported. It is not something that parents have control over.
- Of course, not all the parents are happy with the resulting decisions.

## **Resource**

### **Reproductive Rights Project- New York Specific**

[http://www.nyclu.org/rrp\\_bien\\_01\\_02.pdf](http://www.nyclu.org/rrp_bien_01_02.pdf)

Beginning on page 7, the document addresses the confusion surrounding minors' rights to consent to or refuse rape crisis treatment, their rights to receive confidential treatment, and their rights to decide whether to report sexual assault to the police. The Mt. Sinai Adolescent Health Center and New York Presbyterian Hospital's Center for Community Health and Education Program commissioned the Reproductive Rights Project to analyze and produce materials on this issue. Although state-specific, SARTs may choose to use the information to address similar issues/laws in their jurisdiction.