

## **Prosecution Rates Impacted by Reports Not Immediately Made**

**SART Listserv  
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**Issue:** What is the impact of anonymous reporting on prosecution?

**Background:** A SART is considering adopting a measure that would allow victims 72 hours to decide if they would like to make a statement to law enforcement after they have had a forensic medical exam. Currently, the community does not have a system in place that gives survivors/victims access to a forensic medical exam without law enforcement involvement. The DA and law enforcement are concerned the protocol will decrease prosecution rates.

### **New York (Bronx)**

- Our patients can have a forensic medical exam without making a police report.
- All patient go to one of three emergency departments in our borough.
- The SART does the forensic exam. The ED physician orders medication and the ED nurse administers the medications.
- We collect and store evidence from their bodies for a minimum of 30 days while the patient makes up her/his mind.
- If the patient decides to go forward, they can sign a release, and the evidence is turned over to the police.
- If the kit remains in the hospital, it is signed over to hospital police. They maintain the chain of custody until/if the kit is released;
- The kit is locked in the Hospital Police Department for a minimum of 30 days, but it can be kept longer, if there is enough space.
- In New York hospitals where there are no hospital police, the hospital is responsible for developing a protocol for storage and chain of custody of the evidence.
- There are various places that hospitals store this evidence. Some use the hospital's lab, some use the morgue, and some used a special locked area in the ED. There is usually minimal access the area where the kits are stored, and some type of evidence log is maintained.
- Rape is not a mandated reported crime in NYS. Hospital staff cannot notify the police without the patient's consent.
- As long as the patient has a forensic exam, we can send the bill to the Crime Victims Compensation Board. If the patient signs the form, the hospital is paid directly from these compensation funds, taking the patient out of the billing loop.
- The rate is \$800.00, regardless of the actual emergency department bill. Our legislators decided on this amount.

## **Maryland**

- We have two counties in our state that have been operating "Jane Doe" projects regarding anonymous reporting.
- The victim has 30 days to decide whether or not to talk to the police.
- Prosecutors have had some success in addressing juror bias by using expert witnesses to explain victim behavior, including delayed reporting.
- Delayed reporting is, after all, the norm and not the exception.
- When victims do report to the police, I believe national statistics indicate that 25% report after 24 hours and 64% report within 72 hours.

## **National perspective**

- It is important to note that the language in VAWA 2005 prohibits forcing a victim to report to law enforcement in order to receive a forensic exam (on penalty of lose VAWA eligibility).
- The US Department of Justice (DOJ) supports the legislative language in the hopes that when victims have more time to deal with the immediate aftermath of the crime and get information and support, that they will engage in the prosecution of the offender.
- We all know of course how traumatic it is for victims to try to make any decision in a traumatized post-assault state. This allows them to make a clear, informed choice when they are out of the immediate trauma.
- The fact that DOJ supported it could help with law enforcement and prosecutors.

## **Resources for Anonymous Reports**

### **Sexual Reports in Military**

Department of Defense Report for 2006 shows that sexual assault reports increased 24% which may reflect increased confidence in restricted reporting options.

<http://www.sapr.mil/contents/references/2006%20Annual%20Report.pdf>

<http://www.sapr.mil/contents/references/2005%20RTC%20Sexual%20Assaults.pdf>