

Protocols or Guidelines

SART Listserv

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States are listed as a reference – not necessarily as a statewide perspective.

Background: Several prosecutors are concerned that defense attorneys could challenge a response that is not consistent with written protocols. The prosecutors want to create **guidelines** instead of protocols. SARTs are concerned that “guidelines” might not be as powerful as protocols.

Georgia

- In the state of GA we actually have a law that mandates a SART protocol in each judicial district.
- Georgia’s Statute 15-24-2 mandates the formation of a sexual assault protocol committee, stipulates who will serve on the committee, and governs the frequency of meetings.
- The statute states that the protocol shall be a written document outlining in detail the procedures used for investigating, collecting evidence, paying for expenses related to evidence collection, and prosecuting cases arising from alleged sexual assault.
- Once the protocol is written, the protocol committee continues to meet at least annually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating it.
- The statute further states **that a failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual assault, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action.**

Maine

- We use guidelines;
- Not only do guidelines offset defense issues, they also enable buy-in and acceptance from all responding agencies;
- When the responding agencies work together to create the guidelines, they are generally followed.

Michigan

- Guidelines are preferable.
- They allow for a uniform response, but enable the use of professional judgment in unique circumstances.

Minnesota

- Response teams design the protocols together – and ,as such, have a lot of buy- in for the final product;
- Their materials always carry a caveat that identifies that professional assessment may require a variation from protocol – thereby creating space for the best response based on circumstances;
- In essence, our protocols work as guidelines.
- We have never heard of a challenge in court

Ohio

- A county developed response protocols for all disciplines but the prosecutor asked the team not to “put it in writing”.
- The prosecutor was also concerned about defense attorney’s perceptions of having a prosecutor involved with the development of the guidelines;
- We now have guidelines rather than protocols and do cross-systems training.