



Protocol Development Guide:

Creating a Multidisciplinary Protocol for Alternative Reporting Options

November 2021

This Protocol Development Guide was created to supplement EVAWI's OnLine Training Institute (OLTI) module, [Opening Doors: Alternative Reporting Options for Sexual Assault Victims](#). The module explains key terms and concepts for various reporting options; **it is expected one or two leaders in a community might read the module.**

However, when a community starts to develop their own protocol for alternative reporting options, these terms and concepts must be translated into actual policies and practices. **This shorter guide is designed for everyone on the team.**

Overview

The document begins by reviewing **Types of Protocols** that could be developed, **Collaborative Partners** needed, and approaches to **Alternative Reporting Options**:

- One Investigative Step at a Time
- Online Reporting
- Anonymous Reporting
- Non-Investigative Reporting
- Third-Party Reporting
- Informational vs. Crime Reports

The second half of the document guides readers through specific **Protocol Elements**, offering sample text from existing protocols, with page numbers for quick reference:

- Philosophy and Purpose
- Sexual Assault Laws
- Dynamics and Victim Impact
- Professional Roles

Finally, the document examines specific **Practice Considerations** for alternative reporting protocols, including best practice recommendations and sample text on:

- Notification of Advocates
- Informing Victims
- Documenting Consent
- Crime Victim Compensation
- Medial Mandated Reporting
- Protecting Victim Privacy
- Follow-Up Contact
- Converting to Full Participation
- Evidence Collection, Storage, and Testing
- Trauma-Informed Practices
- Documentation and Review
- Public Notification
- Evaluating Protocol and Practice

Organizational Features

Throughout this guide, we will use icons to highlight key concepts, identify supplemental resources and tools, explore promising practices, and offer policy recommendations:



Resources and tools



Information to note



Innovative and promising practices



Policy recommendations



Key Concepts

The goal of an alternative reporting protocol is to increase the options available to victims of sexual assault. This goal is encapsulated in two key concepts:

- **One Step at a Time:** How can allied professionals support a *gradual* process of disclosure and reporting (rather than “all or nothing,” and “now or never”)?
- **Opening Doors:** How can allied professionals increase the number of options available for victims to report their sexual assault and access services/support?

Victims who have more ways to access information and support, receive physical and psychological care, and preserve criminal justice viability will be better able to successfully participate in the investigative process if and when they choose to do so.



Alternative reporting options for sexual assault **are generally only available for victims who are adults and older adolescents**. Any discussion of reporting options for children or younger adolescents is beyond the scope of this guide.

Basic Reporting Mechanisms

There are three basic mechanisms for alternative reporting. A multidisciplinary protocol will need to clearly identify which reporting mechanisms will be included and how they will operate. However, given that the goal is to increase the options available for victims, the ideal approach might be to address all three reporting mechanisms in your protocol.

- **Reporting directly to law enforcement:** This contact could either be direct (phone, email, or in-person) or through an online reporting portal or other means.
- **Reporting through a medical forensic examination:** When a victim presents to a health care facility following a sexual assault, a medical forensic examination will typically be conducted. Health care providers may be legally required to report the sexual assault to law enforcement, but regardless, the evidence that is collected and documented could be stored by law enforcement.
- **Reporting through another entity:** Victims could also contact a third-party organization, either personally (on the phone, by email, or in-person) or through an online reporting portal or other means. The third-party entity may forward the report to law enforcement for intelligence purposes only. Or they may simply store the information while the victim takes time to make a decision about reporting to law enforcement and participating in the criminal justice process.

These endeavors provide a venue for victims to satisfy their need to notify others of the potential for harm, gain faith in a complex process unknown to them, and receive the response they deserve (Garcia & Henderson, 2010, p.5).

Types of Protocols

After selecting basic reporting mechanisms, the next question is what type of protocol are you developing? Is it for an *individual agency*? Or a *multidisciplinary collaboration*?



What is a protocol? A helpful description is provided by the **Ohio Department of Health** in their [statewide protocol for medical forensic examinations](#).¹

Individual Agency

For any agency involved in alternative reporting options, their specific roles and responsibilities will need to be addressed **in their own agency's policies and procedures**. For instance, law enforcement agencies may need to explain the underlying philosophy of alternative reporting options before detailing the specific steps to be taken by officers, investigators, and supervisors. Similarly, forensic examiner programs, victim advocacy organizations, and prosecutor's offices will need to ensure that their agency's policies and procedures outline their roles and responsibilities.

Multidisciplinary Protocol

Alternative reporting options will also need to fit within larger policy frameworks such as the **multidisciplinary protocol for medical forensic examinations, or community SARRT (Sexual Assault Response and Resource Team)** responses.² This demonstrates how the various policies and procedural elements fit together, and helps to ensure they are consistent with other relevant laws, regulations, policies, and procedures (including medical mandated reporting requirements, "test all kits" laws, evidence retention policies, Crime Victim Compensation eligibility, etc.).

Community protocols should address the needs and desires of both the victims who choose to engage with the criminal justice system and those who do not (National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach, 2017, p. 7).



To locate the protocol for medical forensic examinations and Sexual Assault Response and Resource Teams (SARRTs) in any US state, please see the website for the [International Association of Forensic Nurses \(IAFN\)](#). Additional information can be found in two OLTI modules: [Sustaining a Coordinated Community Response: Sexual Assault Response and Resource Teams \(SARRT\)](#), and [SARRT: A Guide for Rural and Remote Communities](#).

¹ Ohio Department of Health (2011). [Ohio Protocol for Sexual Assault Forensic and Medical Examination \(2nd Edition\)](#). Office of Healthy Ohio, Bureau of Health Promotion and Risk Reduction, and Sexual Assault and Domestic Violence Prevention Program (for the definition of a protocol, see [Appendix 1](#), p. 2).

² In EVAWI training materials, we refer to Sexual Assault Response and Resource Teams (SARRTs). However, other materials often call them Sexual Assault Response Teams (SARTs, with one "R").



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Collaborative Partners

Creating a protocol is a significant task. It is only likely to succeed if undertaken by a collaborative Sexual Assault Response and Resource Team (SARRT), including:

- Law enforcement (first responding officers and investigators)
- Health care providers, including Sexual Assault Nurse Examiners (SANEs) / Sexual Assault Forensic Examiners (SAFEs), Emergency Department personnel, and others
- Community-based and system-based victim advocates
- Prosecutors
- Crime laboratory personnel
- And other professionals in campus, military, and tribal agencies (especially those with mandated reporting responsibilities).

The multidisciplinary approach should seek out and include voices from any underserved or vulnerable populations in the community's response to sexual assault cases. At its core, responding to sexual violence cannot rest on the shoulders of a single stakeholder if victims are to obtain justice and offenders are to be held accountable (National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach, 2017, p, 12).

Even *within law enforcement agencies*, a truly effective protocol will need to clearly spell out the responsibilities for personnel working in several different units:

- Communications (911 call takers)
- Patrol / Investigations
- Property / Evidence Room
- Records Department
- Crime Laboratory
- Administration / Management
- Public Relations / Public Information Officers

Significant Investment

Protocol creation requires a **significant investment of time and effort**. In Cambria County, Pennsylvania, the initial development of their multidisciplinary protocol took *three years*.

Continuous Review

It also requires continuous review. In New Hampshire, their protocol is comprehensively reviewed by a multidisciplinary committee every few years, and updated as needed. The benefits of this type of investment are well worth the cost, both for individual victims, but also for law enforcement and allied professionals, and the communities they protect and serve.



Alternative Reporting Options

“Alternative reporting options” is an umbrella term that encompasses more than a basic reporting mechanism. It covers a variety of approaches designed to increase access to the criminal justice system and community services for sexual assault victims. Some of these approaches have long been used in communities, even if they had no formal name, and were never documented in any official protocol, policy, or procedure.

In each case, strive to create an environment in which victims are encouraged to report and are supported throughout the criminal justice process and beyond. Even in those cases that do not develop beyond an initial report to the police, victims should feel that they are respected (National Protocol for Sexual Assault Medical Forensic Examinations, 2013, p.48).

One Investigative Step at a Time

For example, many communities have long had a practice of allowing victims to **report directly to law enforcement without initiating a full investigation and possible prosecution.**

Victims may be encouraged to provide information about their sexual assault, even if they aren't comfortable identifying themselves (at least initially). Or maybe they are comfortable identifying themselves, but they ask law enforcement not to investigate their report. Or maybe they are okay with law enforcement taking some investigative steps, but not others. Then, depending on the information gained, and the outcome of each investigative step, victims decide whether they want to continue.

In the [Opening Doors module](#), we describe this approach as *one investigative step at a time*. The success of this approach rests on the quality of the relationship between investigators and victims. When this relationship is based on trust and respect, they can have a personalized discussion about what possible steps might be taken and what might happen as a result. This may not require any formalized policies or procedures. However, it does require agency culture and leadership, to encourage and reward this approach by investigators.

Online Reporting

Another expression of *one investigative step at a time* is an online reporting portal. Online portals can be used by some victims to file a traditional crime report and launch a full investigation. Or, they can offer a mechanism for anonymous and/or non-investigative reporting. It all depends on the information provided, as well as the victim's preferences.



Gainesville (Florida) Police Department offers online reporting for sexual assault victims (or third parties) on their [agency's website](#). The website also offers helpful information and an instructional video for survivors and their support people.

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When online portals incorporate translation services and accessibility features, they can **enhance access to services for a wide range of users**. However, it is essential that they provide victims with clear and accurate information about all the options available, and explain what will happen to a report, including how the information will be shared and used. Portals will also need to comply with the [Health Insurance Portability and Accountability Act \(HIPAA\)](#) and [confidentiality requirements in the Violence Against Women Act \(VAWA\)](#).

Yet the real value of an online reporting portal rests on the quality of the prompts. Just like in-person interviews, victims will be able to provide more detailed information if they are asked well-crafted questions in an interview dialogue (not just “Please describe the incident”).



EVAWI has developed [SEEK THEN SPEAK](#) as a way for sexual assault survivors and support people to privately gather information and explore options for medical care, supportive services and reporting to police (SEEK). If they choose, survivors can then begin the process of reporting to police by completing a detailed, self-guided interview (SPEAK). For more information, see EVAWI’s [website](#).

Anonymous Reporting

Other options require more formalized policies and procedures. For example, anonymous reporting can enable sexual assault victims to **provide information to law enforcement without recording their identity**. This could be accomplished with any of the basic reporting mechanisms (direct contact with law enforcement, medical forensic exam, or other third-party entity). If a medical forensic examination is conducted, various procedures can be used to protect the victim’s identity. For example, the evidence could be tracked using an anonymous identifier, or any documents with identifying information could be sealed inside the kit.



EVAWI’s recommended practice is for any alternative reporting protocol to **offer victims the option to personally talk with law enforcement**, without recording their identity. This gives victims an opportunity to make a personal connection with an officer, learn more about their various options, get their questions answered, and access supportive resources – before making a decision about identifying themselves and participating in an investigation. The [Opening Doors module](#) provides more detail, as well as an example of how one veteran investigator explains this option to victims.

Limits of Anonymity

It is clear anonymity is something many victims want while they consider their reporting options. However, the realistic limits of anonymity must be clear for victims as well as professionals. For example, when victims have a medical forensic examination, *health care providers will know their identity as a patient*. This also means the billing and records departments of the hospital or exam facility may know their identity, as well as any advocacy agency offering support, and Crime Victim Compensation (CVC) or other payment fund.



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Law enforcement also has the legal right to seek identification of the victim as part of their investigative discretion. They may even know who the victim is already, especially in small or isolated communities. Responding professionals must therefore understand that **the practice of anonymous reporting relies on good faith agreements between law enforcement and community partners**, to ensure that anonymous reports will remain anonymous.

Non-Investigative Reporting

While there has been considerable focus on anonymous reporting for sexual assault, the question of anonymity may not be as critical as *what happens next*. If a victim is unable or unwilling to participate in the criminal justice process, will the report be investigated (and possibly prosecuted) anyway? Or will the victim be allowed to decide? Non-investigative reporting enables victims to report their sexual assault to law enforcement **without triggering an investigation and possible prosecution**. This involves two key elements:

- Victims provide law enforcement with as much or as little information about their sexual assault as they choose, and **this information is documented by law enforcement**; they may also have evidence collected and documented to the extent they choose.
- But victims still decide **whether and when an investigation will be initiated**.



The ideal may be **a combined option for anonymous and non-investigative reporting to law enforcement**. Because anonymity has limits, protocols should clearly document the agreement to respect a non-investigative philosophy, irrespective of any additional procedures designed to protect victim anonymity.

Limits of Non-Investigation

As with anonymous reports, police and prosecutors have clear legal authority to pursue any non-investigative report of sexual assault, regardless of the victim's wishes. **Agreements are therefore needed between community partners to respect the philosophy of non-investigative reporting**, except in limited circumstances:

- Some of these exceptions include cases that involve a victim who is very young, very old, or who sustained extensive physical injuries, or when the suspect is: (a) an intimate partner, (b) a serial offender, or (c) someone who is high profile within the community, such as a law enforcement officer, or an elected or appointed official.
- The [Cambria County Protocol](#) describes some exceptions to non-investigative reporting, including incidents involving law enforcement and/or appointed officials (p. 33-34), and other high-profile, serial, or cases pursued at the discretion of the District Attorney (p. 20).



To explore this issue in detail, please see the [Opening Doors module](#), particularly Appendix D, which focuses on the question of “evidence-based prosecution.”



Third-Party Reporting

Another term worth defining is *third-party reporting*, which describes information provided to law enforcement **from someone other than the victim**. This could be a friend, family member, teacher, coach, clergy member, or any other third party. For example, third-party reports are commonly made by parents when they suspect that their adolescent is the victim of rape (including statutory rape). Third-party reports are also made by health care providers and others with mandated reporting responsibilities. While third-party reports often include identifying information for the victim, they could be anonymous in some circumstances.



Third-party reporting is offered through the [Nebraska Crime Stoppers Program](#). As with the online reporting portal hosted by the Gainesville Police Department, victims and third parties can use the program to provide as much or as little information about a sexual assault as they choose. They can provide contact information, or remain anonymous. Information is then monitored by the Nebraska State Patrol, and may be given to local law enforcement when the jurisdiction of an incident can be determined.³

Other Community Partners

We have already described protocols that allow victims to report their sexual assault through the process of a **medical forensic examination**. However, this is only “reporting” to a health care professional, not directly to law enforcement. Law enforcement is typically responsible for the long-term storage of evidence collected and documented during an exam, but there is usually no official crime report filed.

Third-party reporting could also be offered by **other community partners**. For example, an online reporting portal could be hosted by a victim advocacy organization, a Family Justice Center, or another service agency. To be meaningful, such programs require detailed agreements between law enforcement and any entity authorized to accept third-party reports.



In **Asheville, North Carolina**, the Our VOICE advocacy program offers third-party reporting on their [website](#), in collaboration with the Asheville Police Department and Buncombe County Sheriff’s Office. Victims provide as much or as little information as they choose, identify themselves or not, and decide whether to have law enforcement contact or not. No investigation is initiated unless they specifically consent to this.

Informational Report vs. Crime Report

When law enforcement agencies receive information, regardless of the pathway, a decision will need to be made whether to record it as an *informational report* or a *crime report*.

³ For details, see Nebraska Attorney General’s Office (2019). [Nebraska Medical Sexual Assault Protocol](#).

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- A **crime report** should be completed by law enforcement when the elements of a sexual assault offense are met with the information provided, and the victim's identity is recorded. This report should be included in departmental statistics, just as it would if the victim reported a sexual assault but later withdrew participation in the investigation.
- An **informational report** should be used when the elements of a sexual assault offense *have not been met* with the information obtained so far, and the victim does not want (at least initially) to officially identify themselves for the purpose of a report and investigation. An informational report may later be converted to a crime report, if the victim decides to be identified or additional information is revealed that meets the elements of an offense.

Crime reports will need to be cleared or closed based on agency policies and practices, as well as nationally established guidelines for the Uniform Crime Reporting (UCR) program. When an investigation does not move forward with victim participation, and does not result in an arrest or referral for prosecution, **it should be suspended or inactivated, not cleared.**

Typically, an informational report will only be reviewed for the information provided; no follow-up investigation will be conducted. As a result, **informational reports do not need to be cleared or closed.** However, the retention period for these reports may need to be examined, to ensure they are being held for a period of years, or the statute of limitations.



Please note: Some online platforms have been developed for victims to “report” their sexual assault, but **reporting is defined simply as documenting information and storing it in a date/time stamped record.** These options may or may not be aligned with the goals of *opening doors* and *one step at a time*. To be meaningful, they require establishing detailed policies and procedures (as well as signed agreements) between the law enforcement agency and any entity authorized to accept third-party reports (please see the [Opening Doors module](#) for more detailed discussion).

Courtesy Reports

A final topic worth considering in this context (of various types of reports) is the report from a victim who was sexually assaulted in another jurisdiction. When someone is sexually assaulted while they are away from home (for example, on vacation, at college, or on a work trip), they often wait until they return home to report the crime. This makes sense, but it means the law enforcement agency receiving the report will not have jurisdiction over the crime. Far too often, victims in this situation are told to drive across town, or the state – even fly across the country – to report their sexual assault in the jurisdiction where it occurred.

In these scenarios, the law enforcement agency in the victim's hometown may be able to assist the agency with jurisdiction, by conducting a preliminary victim interview and documenting the information obtained in a **courtesy report**. This exemplifies a victim-centered approach, in those scenarios where someone finds the courage to contact law enforcement to report a sexual assault – only to find out that it is the “wrong” agency. In other words, it is another expression of an *opening doors, one step at a time* approach.



Protocol Elements

We now turn our attention to topics that might be included in a protocol, offering guidance on specific policies and procedures, and sample language from existing materials. We specifically feature elements from several examples from across the country.



For more detail on these sample protocols, please see the Summary of Alternative Reporting Protocols which appears in Appendix B of the [Opening Doors module](#).

Sample Protocols

- To illustrate, **New Hampshire** offers a statewide protocol for [medical forensic examinations](#)⁴ as well as [SARRT responses](#).⁵ Both of these protocols incorporate procedures for anonymous reporting, which will be highlighted later in this guide.
- **Cambria County, Pennsylvania** also has a protocol for [anonymous reporting](#).⁶

For jurisdictions seeking to draft their own protocol, these examples offer an excellent place to start. Keep in mind, however, that they are only available for victims who have a medical forensic exam. By incorporating options in a SARRT protocol (*and* an exam protocol), this helps ensure victims have access to these options regardless of whether they have an exam.

Philosophy and Purpose

The first section of a protocol often outlines its philosophy and purpose. This is a particularly good idea for protocols detailing alternative reporting options, because they represent a departure from standard law enforcement practices, and even traditional ideas about the relationship between law enforcement, crime victims, and the community as a whole.

The objective is to promote better and more victim-centered care, support, and evidence collection and documentation, in order to increase reporting and ultimately hold more offenders accountable.

- Cambria County Protocol, p. 2.

- The [Cambria County Protocol](#) includes both a *Statement of Purpose* (p. 2-3), and *Guiding Principles* (p. 4-5).
- The New Hampshire protocol introduces *Reporting Anonymously* by outlining the philosophy and purpose (p. 17 in the [Exam Protocol](#), and p. 33-34 in the [SART Protocol](#)).

⁴ New Hampshire Office of the Attorney General (2018). [Sexual Assault: An Acute Care Protocol for Medical / Forensic Evaluation \(9th Edition\)](#). Office of the Attorney General, New Hampshire Department of Justice.

⁵ New Hampshire Office of the Attorney General (2018). [A Model Protocol for Response to Adult Sexual Assault Cases \(2018 Edition\)](#). Office of the Attorney General, New Hampshire Department of Justice.

⁶ Cambria County Community of Responders (2011). [Cambria County Sexual Assault Protocol \(2nd Edition\)](#).



Sexual Assault Laws

Some protocols define sexual assault and related criminal offenses, as well as medical mandated reporting requirements, and other laws related to sexual assault response.

- The [New Hampshire SART Protocol](#) offers an explanation of *Sexual Assault Laws and Related Offenses* in clear and plain language (p. 5-7). It includes domestic violence, strangulation, kidnapping, criminal restraint, kidnapping, false imprisonment, stalking, human trafficking, etc. This type of list may help law enforcement think comprehensively about other crimes that may have been committed along with a sexual assault offense.

Dynamics and Victim Impact

Protocols also frequently offer general information about sexual assault dynamics, common responses of victims, and the unique dynamics of victimization for certain populations.

- The [Cambria County Protocol](#) describes common reactions to sexual assault, and impacts on specific populations (including victims who are male, LGBTQ, elderly, or have disabilities) and assault types (such as drug-facilitated, and intimate partner violence).
- The [New Hampshire Exam Protocol](#) explores the nature of sexual assault and issues for responding professionals (p. 4-7), with detailed information on elderly victims (p. 16-17).

This type of information can be helpful to include in a multidisciplinary protocol, because it serves an educational purpose and helps keep responding professionals “on the same page.” However, it may be best to provide this type of supplementary information in an Appendix, to keep the discussion of procedural elements simple and straightforward.

Professional Roles

To ensure all partners understand each other’s roles with respect to alternative reporting options and procedures, they should be carefully detailed in a multidisciplinary protocol.

- The [New Hampshire SART Protocol](#) explains the SART model as a general philosophy (p. 3-4). The [Exam Protocol](#) then outlines steps in the general exam procedure (p. 26-45), noting slight variations for standard versus anonymous reporting options. By integrating the variations in a single protocol, this avoids unnecessary redundancy in the text.
- The [New Hampshire SART Protocol](#) also includes a comprehensive checklist detailing responsibilities of responding professionals, and the steps to be taken when a sexual assault victim chooses a standard versus anonymous reporting procedure (p. iii-vii).
- Beyond the basic disciplines, the [Ohio Protocol](#) lists many additional agencies that might be involved in a full collaborative response, in a section entitled *Cultural Sensitivity / Cultural Competency in Assisting Survivors of Sexual Assault* (see [Appendix 1](#), p. 4-6).

Practice Considerations

Next, we offer various policy and practice considerations for an alternative reporting protocol. These considerations intertwine with laws and requirements encoded in both state and federal statutes, as well as the unique context of agency policies, practices, and resources.

Notification of Advocates

One practice that should be incorporated in any protocol is **notification of a victim advocate as soon as possible**. That way, advocates can meet with the victim privately to explain the options available and describe the services they can provide.

Patients who have experienced sexual assault are usually better able to respond to procedures when they are supported, believed, and safe.

- New Hampshire Exam Protocol (p. 4)

- The [New Hampshire Exam Protocol](#) outlines general procedures for notifying advocates when a sexual assault victim presents to an exam facility (p. 4, 9). Additional detail is then incorporated in the [SART Protocol](#) (p. 38-41, 43).
- The [Cambria County Protocol](#) describes similar procedures for notifying advocates, emphasizing that victims *should not be asked* whether they want an advocate to be contacted. Instead, health care providers are advised to notify an advocate, introduce the two, and offer victims the option to speak with the advocate privately (p. 25).
- There is also a brief but helpful explanation of *Advocacy Response in the Medical Setting*, included in the [Nebraska Protocol](#) for medical forensic exams (p. 5). A more detailed and equally helpful description of *Advocate Responsibilities* appears in Appendix C (p. 13).

Once again, these procedures center around the medical forensic exam. Any community seeking to offer alternative reporting options directly to law enforcement and/or through another organization should incorporate advocacy notification into these other entry points.



Procedures for alternative reporting options will need to clarify the different roles of **community-based advocates** (who work for a non-governmental agency) and **system-based advocates** (who work for a police department or prosecutor's office). For more information, see the two OLT modules on victim advocacy: [Effective Victim Advocacy Within the Criminal Justice System](#) and [Breaking Barriers: The Role of Community-Based and System-Based Victim Advocates](#).

Informing Victims

The next step is to ensure victims are informed about standard versus alternative reporting options, before they are asked to make a decision. This information needs to be clear and consistent, regardless of which agency or entity serves as the initial point of contact.

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Written Materials

Responding professionals will need to explain reporting options verbally, but **the information should also be provided to victims in writing**. The [Opening Doors module](#) provides a list of key points to address in these materials, and examples can be found in existing protocols.

- The [New Hampshire Exam Protocol](#) includes an informational document for victims, addressing Frequently Asked Questions (FAQs) related to evidence (Appendix N, p. 74). Questions include what happens to the evidence from an exam, when and how it is tested, whether victims can get the testing results and/or any evidence returned, and how these considerations are affected by anonymous reporting and case conversion.
- The consent form included in the [Cambria County Protocol](#) also provides information for victims on a variety of essential topics, including exam costs, law enforcement contact, medical records, privacy, and evidence storage. It additionally covers how to convert the report to full participation in an investigation, and options for follow-up contact (p. 55).



When handing victims written materials, it is important to determine whether they could potentially compromise the victim's safety or privacy, **based on who might see them**. This is one of many issues to assess during comprehensive safety planning.

Accessibility

Because victims with limited English proficiency, and physical or intellectual disabilities may have difficulty accessing information about alternative reporting options, community protocols will need to incorporate procedures **to ensure accessibility for many different populations**.

- As one example, the [Cambria County Protocol](#) highlights the fact that interpreter services are available for sexual assault victims 24 hours a day, 7 days a week (p. 6).



The **US Department of Justice** offers [guidance](#) on increasing the accessibility of written resources, including Large Print, Braille, CD, or screen readers.⁷

Documenting Consent

After reviewing information about their options, victims will need to **document their consent to whatever path they choose**, whether it is a standard or alternative reporting procedure.

- The [New Hampshire Exam Protocol](#) offers an excellent discussion of the principles and procedures for informed consent (p. 20-21). (An abbreviated version appears on p. 45 of the [SART Protocol](#)). The text is written in the context of a medical forensic exam, but it

⁷ US Department of Justice (2014). [ADA Requirements: Effective Communication](#). Washington, DC: Civil Rights Division, Disability Rights Section, US Department of Justice.



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could be easily adapted for use in a multidisciplinary protocol that includes alternative reporting options directly to law enforcement or through another third-party entity.

- The [New Hampshire Exam Protocol](#) also includes an Authorization and Disclosure Form (Appendix Q, p. 92), which victims sign to document their consent to standard versus anonymous reporting. For anonymous reporting, their signature documents their consent for the exam facility to collect and transfer evidence to the law enforcement agency with jurisdiction over the sexual assault, *but not to review or test it*.
- The [Cambria County Protocol](#) includes similar language in their consent form: “I request a medical forensic examination to document and collect evidence, but I do not want to speak with law enforcement at this time. I understand that Anonymous Reporting means that I may have evidence collected without having to talk with police or participate in the criminal justice system unless and until I am ready to do so” (p. 55).
- As noted in the introduction, alternative reporting protocols will need to consider how informed consent specifically relates to minors, adolescents, or individuals with a legal guardian. The [Ohio Protocol](#) includes a section addressing consent for minor patients to obtain a medical forensic examination with medical mandated reporting (p. 6-8). It also states that an examination should not be conducted with an unwilling minor.
- Finally, the [New Hampshire Exam Protocol](#) notes that anonymous evidence collection procedures may be used when patients cannot give informed consent (for example, when they are incoherent or unconscious as a result of drugs or alcohol. When the patient regains capacity, they can then make the decision about reporting.

Crime Victim Compensation

When developing a protocol for alternative reporting options, it will be important to clarify whether victims will still be eligible for Crime Victim Compensation (CVC). This may require evaluating statutory and administrative rules governing CVC eligibility, and making exceptions for alternative reporting pathways. The exceptions should then be explained both in the protocol and informational materials for victims, to ensure they are administered consistently.

- The [New Hampshire Exam Protocol](#) combines the discussion of exam billing procedures with the Victims’ Compensation Program (p. 12-13, 46-48). This creates a streamlined discussion of billing and payment issues, outlined in clear and plain language.
- It is also worth highlighting that victims in New Hampshire are eligible to apply to the Victims’ Compensation Program **as long as they seek medical care within 10 days of the assault and agree to evidence collection**.⁸ Direct links are provided for the program website, the online application form, and detailed instructions (p. 12-13, 46-48). Contact information is also provided for all Victim/Witness Assistance Programs

⁸ The two New Hampshire protocol documents ([SART Protocol](#) and [Exam Protocol](#)) state that the requirement is 5 days, but this was updated in 2019 to extend it to 10 days. [N.H. Code Admin. Rule JUS 605.13 \(e\)](#).



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throughout the state (Appendix D, p. 54). This is an excellent model for thoroughly covering the issues.



In 2020, policies for the **California Victim Compensation Board (CalVCB)** were revised so they now emphasize that compensation claims for sexual assault cases should not be denied "solely because the victim did not report the crime." Instead, CalVCB statute allows that "staff may use other factors to determine a crime was committed when a crime report is unavailable." These other factors could include:

- Medical records documenting injuries consistent with allegations of sexual assault
- Documentation that the victim received a sexual assault examination
- Mental health records
- Letter or written statement from a counselor or other mental health provider
- Title IX or other campus report demonstrating a preponderance of evidence
- Restraining order against a sexual assault suspect
- "Restricted" or "unrestricted" reports in the US military⁹

Medical Mandated Reporting

Medical mandated reporting can be complicated, especially when it intersects with VAWA forensic compliance and alternative reporting options. The term is used to refer to any legal requirement that health care providers must report to law enforcement when a patient discloses – or the provider has a reasonable basis for suspecting – that they are the victim of a certain crime. For example, a health care provider may observe indicators that a sexual act was committed against a child or dependent adult. Or, the victim may exhibit certain injuries (e.g., gunshot or knife wounds). See the [Opening Doors module](#) for more information.

Three Possible Scenarios

There are three scenarios for consideration when victims have a medical forensic exam:

1. **The patient consents to law enforcement being contacted.** It is always permissible for health care providers to notify law enforcement whenever a victim/patient consents to this, regardless of whether there is any medical mandated reporting requirement.
2. **The law requires health care providers to file a report of suspected sexual assault under circumstances that apply to this patient.** In this scenario, the medical mandated report will be made to law enforcement regardless of whether the victim/patient consents.

⁹ Thanks to Marta Sykes, Manager of Training & Policy Implementation for the California Victim Compensation Board (CalVCB), for providing this information.



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However, the victim will need to be advised of this mandate, and notified that they still decide whether they will talk with an officer or participate in the investigation.

3. **There is no mandated reporting requirement, and the patient has not consented to law enforcement being contacted.** In this scenario, health care providers would violate HIPAA if they notified law enforcement, regardless of what the facility's policy or procedure might say. This should be clearly articulated in a multidisciplinary protocol.

Addressing Medical Mandated Reporting in a Protocol

Because the details of medical mandated reporting vary dramatically across jurisdictions, professionals from all the involved disciplines must work together to educate themselves and keep up with changes in law, policy, and practice. Victims must also be fully informed.

- A clear explanation of HIPAA requirements and medical mandated reporting in New Hampshire appears in their [Exam Protocol](#) (p. 15-17 & 19) and [SART Protocol](#) (p. 8-9).
- The [Ohio Protocol](#) also incorporates medical mandated reporting. In Ohio, a report must be made to the law enforcement agency with jurisdiction over the assault location. However, the protocol also states that an adult patient's name does not need to be included in that mandated report; it may simply include the date and general location of the assault.



If it is not legally required, EVAWI's recommended practice is for health care providers to **not identify the victim in a mandated report of sexual assault**. Health care providers may use the phrase "declined by patient" for the patient's name (or suspect's name, if known), as well as address and phone number. A non-identifying address could also be used for the assault location, to avoid identifying the victim, such as the police department address or the 100-block of the victim's home.

We also recommend that law enforcement **not launch an investigation** into a mandated report when this is not the preference of a competent adult victim. Just because a report is made, this does not require that the victim personally talk with an officer or participate in an investigation, or that any investigative steps must be taken.

Protecting Victim Privacy

When victims choose a reporting option that does not involve identifying themselves to law enforcement or personally talking with an officer, steps should not generally be taken that will violate this basis of trust and violate the victim's confidentiality. For example, investigators should not seek to identify the victim, share information about the report, or initiate contact. However, there are some circumstances where information might be shared without the victim's consent – for example, when health care providers, campus professionals, or others have legally mandated reporting responsibilities. It is critical to advise victims of these requirements, and clarify what information will be shared, with whom, and for what purpose.



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- The [Ohio Protocol](#) states that information regarding the identity of a patient and/or nature of the abuse “shall not be given to the media or any other person(s) seeking information without the written consent of the patient or legal guardian” (p. 7).

Body-Worn Cameras

Another privacy issue is the use of body-worn cameras (BWCs) by law enforcement. With any alternative reporting option, law enforcement might enter a health care facility where victims have had a medical forensic examination or other testing or treatment. This could potentially expose victims, staff, and other patients to BWC recording. Privacy protections should therefore be spelled out in a multidisciplinary protocol, as well as agency policies.

- The [New Hampshire Exam Protocol](#) encourages health care organizations such as hospitals “to develop in-house policies and procedures that prohibit the use of BWCs by law enforcement in patient-care areas unless such agencies are responding to a 911 emergency at the facility.” It adds that “the use of BWCs in a health facility increases the potential for a violation of all patients’ HIPAA privacy rights” (p. 19).
- The [New Hampshire SART Protocol](#) includes guidance on body-worn cameras for *First Responder Contact With a Victim* (p. 16-18), as well as *Suggested Language for Approaching a Victim to Ask for Express Consent When Wearing a BWC* (Appendix F, p. 76). It even includes a section on *Prosecuting Cases with BWCs* (p. 52-52).

Using a Pseudonym

Another way to protect victim privacy is the use of a pseudonym (fictitious name) on public records for reported offenses, including police reports, press releases, and records of judicial proceedings. When victims use a pseudonym, **they are not truly anonymous**. Responding professionals still know who the victim is; it is simply used in public forums and records.



The Texas Association Against Sexual Assault (TAASA) explains the state’s law and practices for pseudonyms in their [Sexual Assault Advocate Training Manual \(2016\)](#), including a [sample form](#) that victims can use to establish a pseudonym. For more information, please see Appendix C in the [Opening Doors module](#).

Follow-Up Contact

When victims initially choose an alternative reporting option, they may be unlikely to convert to full participation without some form of follow-up contact. This contact can be used to check on their well-being, answer questions, and offer assistance. Some victims may also choose to be contacted in certain circumstances, for example, if someone else names the same suspect, or investigators identify a serial offender based on similarities or other connections.



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Traditionally, any follow-up contact by law enforcement does not require formal consent. But for other professionals such as health care providers and advocates, follow-up contact will require specific consent from the victim. Informational materials should describe these options for follow-up contact and the best methods for doing so (phone number, email, etc.).

- The consent form for anonymous reporting in the [Cambria County Protocol](#) describes options for follow-up contact and procedures to convert to full participation (p. 55).



When evaluating options for follow-up contact, it is important to consider not only access and convenience, but also **the victim's safety and privacy**.

Converting to Full Participation

When people talk about “converting” a report, they are often referring to victims who initially choose an alternative reporting option with limited or no investigation by law enforcement, but later decide to participate in a full investigation and possible prosecution. However, we also highlighted how investigations are not an all-or-nothing proposition; law enforcement can take *one investigative step at a time*, based on investigative findings and the victim's wishes. This means conversion is not an all-or-nothing proposition either. It may also unfold one step at a time, as victims become increasingly willing to engage with the criminal justice process.

To achieve the vision of *opening doors* and *one step at a time*, it must be as easy as possible for victims to choose an alternative reporting option, and then just as easy to convert to full participation. This should be reflected in protocols and informational materials for victims.

- For sample text on case conversion procedures, see the [New Hampshire Exam Protocol](#) (p. 18). Some aspects are also covered in the Frequently Asked Questions (FAQs) on evidence (Appendix N, p. 74-75). Particularly helpful is the reassurance that “if stored properly, the evidence collected from you will not be significantly affected by the mere passage of time.” An Authorization and Disclosure Form (Appendix Q, p. 92) is then used to document victim consent to convert from an anonymous report to full participation.
- The [Texas Department of Public Safety](#) also offers a variety of materials for their “Non-Reported Sexual Assault Evidence Program.” This includes a consent form for victims to convert to a standard reporting process with full participation in the investigation.
- The New Hampshire [Exam Protocol](#) (p. 18) and [SART Protocol](#) (p. 35) both encourage victims to convert to full participation whenever they are able to: “Any crime victim has the right to report the crime at any time following the commission of that crime.” However, the question of whether the converted report can be prosecuted “is a matter that will be determined within the criminal justice system, based on a multitude of factors (e.g., statute of limitations, existence of supporting evidence).”



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Regardless of which entity is the point of contact for case conversion this should be a **position rather than an individual**. That way, the information will remain accurate even when there is turnover among individual staff members.

For additional information on case conversion, including points to consider when crafting a protocol and informational materials for victims, please see the [Opening Doors module](#). The module also cautions against using the term “converted” in scenarios where a victim initially chooses an alternative reporting path, but **an investigation or prosecution is pursued against their wishes**. This characterization is a serious disservice to victims, and presents a misleading image to the public. When cases are pursued against the victim’s wishes, they should not be described as converted nor included in any statistics on converted cases.

Evidence Collection, Storage, and Testing

Many questions about evidence will arise when communities seek to create a protocol for alternative reporting options. These frequently pertain to a medical forensic examination, but evidence could be taken into custody by law enforcement in connection with any form of alternative reporting with, or without an exam. For example, a victim may provide an article of clothing or bedding, take photographs of injuries, or submit digital evidence like cell phone data, digital photographs, or social media posts. Questions to address include the following:

- What types of evidence can be collected and stored?
- Who will store it, and for how long?
- Will it be tested by a forensic laboratory?
- Can victims have any evidence returned?
- Will they be notified when their evidence will be destroyed?

Prosecutors need to be involved in the process of addressing these issues during protocol development, to ensure that evidence will be admissible for any cases that go to trial.



EVAWI offers model policy materials on [Evidence Retention, Disposition, and/or Removal](#), which incorporate both background information and sample policy language to be adapted by local jurisdictions. The Sexual Assault Kit Initiative (SAKI) also offers an [Evidence Tracking Toolkit](#) with documents and resources.

Medical Forensic Examination

As explained in [Opening Doors](#), VAWA forensic compliance requires states, territories, and tribes receiving STOP grant funds to provide a medical forensic exam for victims of sexual assault, regardless of whether they report to law enforcement or participate in the criminal



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justice process. Protocols must clarify billing and payment procedures to ensure victims have the same access to an exam with a standard report versus alternative reporting options.

- The [New Hampshire Exam Protocol](#) explains billing procedures for medical forensic exams conducted with and without a standard report to law enforcement (p. 12-13, 46-48). It also includes a copy of the billing protocol, instructions and forms to be used for the initial exam and follow-up care, and informational materials for victims (Appendix K).
- The [exam protocol](#) in **Colorado** similarly describes how costs will be covered for the medical and forensic components of a sexual assault exam, both for victims who make a standard report to law enforcement, versus an anonymous or “medical” report (p. 27).¹⁰



Transportation is often a concern for victims seeking a medical forensic exam.

For victims who choose an alternative reporting option, communities may need to pursue options such as gas cards and partnerships with ride-sharing services like Uber or Lyft. For more information, please see EVAWI’s webinar [Thinking Outside the ‘Kit:’ Transportation Options for Improving Access to Sexual Assault Medical Forensic Exams](#), and handout materials which include a [Transportation Protocol Template](#).

Where Should Evidence be Stored?

While answers to some evidence questions will vary by community, the issue of storage location should be relatively straightforward. **Best practice is to have evidence stored long-term by law enforcement, following standard procedures established for all evidence associated with reports of criminal offenses.** This means health care providers should transfer the evidence they collect during a medical forensic exam to law enforcement as soon as possible, ideally within three business days. If this is not possible, a shipping method can be used as long as accepted criminal justice standards are achieved.¹¹

- New Hampshire’s [Exam Protocol](#) offers sample text on law enforcement storage of evidence, by the agency with jurisdiction over the assault (p. 17-18). It also covers procedures for *Collecting and Packaging Evidence* and *Chain of Custody* (p. 25), as well as *Release of Evidence* (p. 43-44). If the evidence is not picked up by the agency with jurisdiction, the examiner will contact the New Hampshire State Police “to request assistance in transporting the evidence collection kit to the appropriate agency” (p. 11).
- The [SART Protocol](#) in New Hampshire also emphasizes the need for timely transfer of such evidence: “Best practice calls for law enforcement to respond to the hospital as quickly as possible following a call to retrieve a kit. Most hospitals do not have secure refrigerators to hold this evidence. Therefore, the examiner must maintain possession of the kit for chain of custody purposes until it can be given to law enforcement” (p. 34).

¹⁰ Colorado SANE/SAFE Program (2016). [Colorado Sexual Assault Evidence Collection Protocol \(3rd Edition\)](#). Colorado Sexual Assault and Nurse Examiner Advisory Board.

¹¹ National Institute of Justice (2017). [National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach](#). Washington, DC: National Institute of Justice, US Department of Justice (p. 35).



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When adapting New Hampshire's protocol, it is worth considering whether law enforcement should transport evidence to the forensic laboratory first, and then retrieve it later, if the victim does not convert to a standard reporting process. Best practice is to **minimize the number of transfers of evidence**, which could be accomplished by initially transferring evidence to the law enforcement agency with responsibility for storage, and only transferring it to the forensic laboratory if the victim converts to a standard reporting process with full participation in the investigation.



In at least one state, **private storage facilities** are seeking to meet the increasing demand for storage of evidence associated with sexual assault exams. For more information about [SAFE Storage, LLC](#) in New York, please see [Opening Doors](#).

How Long Will Evidence Be Retained?

With alternative reporting options, their purpose would be defeated if any associated evidence was not held long enough to give victims time to convert to full participation in the criminal justice process. Thus, **best practice is to hold evidence for at least the statute of limitations for the specific crime(s)**. Or indefinitely, in jurisdictions that have eliminated the statute of limitations for sexual assault or that issue "John Doe warrants" based on a DNA profile rather than a name. These warrants toll the statute of limitations, so older cases can be prosecuted when the person who matches the DNA profile is identified and located.

- The [Cambria County Protocol](#) states that evidence associated with an anonymous report is retained "for the duration of the maximum applicable statute of limitations" (p. 20).



While health care facilities are discouraged from storing evidence, **they do store records from a medical forensic examination**. They are therefore encouraged to create retention policies for these records consistent with statutes of limitations and other criminal justice needs, rather than just traditional medical parameters.

Evidence Tracking

Many jurisdictions are enacting reforms to improve their tracking of sexual assault evidence, particularly evidence associated with a medical forensic examination. **A computerized tracking system is the best way to accomplish this goal**, by coordinating information about the status, progress, and outcomes of all sexual assault reports and their associated evidence. Keep in mind that tracking is needed for all the evidence associated with the report. This could include an evidence kit, as well as blood and/or urine samples, and other items that may be stored separately (clothing, bedding, tissues, towels, condoms, etc.). Tracking systems **should include evidence associated with alternative reporting options, with documentation indicating that the evidence should not be tested**.



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Victim Notification of Testing Status

Some jurisdictions are adding victim notification features, so adult victims can receive information about the location and status of their evidence kit – for example, whether it is in the crime laboratory or the police property room, whether it has been tested, and whether a report with test results has been sent to the law enforcement agency with jurisdiction. This is a laudable goal, but protocols will need to specify who has responsibility for notification and ensure that they are well-trained to explain the process and interpret any test results.

Yet the status of evidence has little to do with the investigation as a whole. For victims to truly understand the status of their case, **they should be informed in a timely manner about the impact of investigative steps on the direction the investigation is taking and/or the outcome of the case** (e.g., the case will be referred to the prosecutor's office, the case has been issued, an arrest is made, or there is insufficient evidence to proceed). This requires investigators and prosecutors talking honestly about the entirety of a victim's case.



Two statewide examples of computerized tracking systems that include victim notification features are highlighted in [Opening Doors](#), from [Montana](#) and [Texas](#).

Evidence Testing

One question that is often asked is whether evidence should be submitted to a forensic laboratory for testing, if the victim has chosen an alternative reporting option. This question typically pertains to the evidence collected during a medical forensic examination, but it could apply to any other type of evidence provided in connection with an alternative report. In most cases, the answer is no, **because the victim has not consented to this**.

CODIS Eligibility

There is also the question of whether any foreign DNA profiles recovered during an exam are eligible for CODIS, which on the national level is referred to as the National DNA Index System (NDIS).¹² **Again, the answer is no**, if the victim has not consented to this and the two key criteria for NDIS are not met:

1. Elements of a criminal offense **have not been established by law enforcement**, and
2. Steps have not yet been taken to **identify and exclude any consensual partner as the source of any foreign DNA**.

¹² CODIS refers to the Combined DNA Index System; it is the database of DNA profiles used for forensic purposes which is operated by Federal Bureau of Investigations (FBI). Many people refer to all forensic DNA databases as "CODIS." However, the CODIS system actually has three levels: National, State, and Local DNA Index Systems (commonly referred to as NDIS, SDIS, and LDIS).



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Equally important, this practice raises questions related to civil liberties and privacy rights, for suspects as well as any consensual partners. Uploading a DNA profile into NDIS, without a criminal complaint or consent of the individuals in question could constitute a violation of privacy rights and may even be subject to legal action (for discussion, see [Opening Doors](#)).



EVAWI recommends that **evidence associated with a non-investigative report simply be stored, but not submitted for testing**. Evidence should only be submitted to the laboratory for testing when the victim has consented to this, either in:

1. The standard reporting process
2. An alternative reporting option that includes consent for evidence testing, or
3. Conversion from a non-investigative report to a standard report.

This point should be emphasized in the informational materials for victims, so they know what will happen to their evidence depending on the possible reporting options.

Testing with Non-Investigative Report

Some jurisdictions have begun offering victims the option of having exam evidence submitted for testing, even with a non-investigative report (see [Opening Doors](#) for discussion).

- The [Nebraska Protocol](#) offers evidence testing with non-investigative reporting (called “partial” reporting). Victims can have evidence collected during a medical forensic exam, and consent to have it submitted to the laboratory for DNA testing, if: (1) law enforcement reviews the exam report and determines the incident described meets the elements of a sexual assault offense, and (2) an attempt is made to obtain any elimination standards.

When developing such a protocol for testing evidence with non-investigative reports, it is worth considering whether this has the potential to offer victims a false promise. Can professionals guarantee the report will *remain* non-investigative after the evidence is tested and the results are returned? What happens if it yields a CODIS hit? Written protocols may be needed to prevent investigators or prosecutors from pursuing the CODIS hit, and pressuring victims to participate in the process or even subpoenaed to testify against their will.

There is also the question of which items of evidence will be submitted for testing, and whether this will vary based on case facts. Without a victim interview and investigation, it may be difficult to determine which items might have the most probative value, or they may not be collected. Careful discussions are needed to address these complex and challenging issues.



Blood and urine samples may also be collected during a medical forensic exam which **could be submitted to a laboratory for toxicology analysis**. This should not be done without victim consent. But when victims are engaged with law enforcement following *one investigative step at a time*, the investigator could raise this as a possibility when it makes sense given case facts (see [Opening Doors](#) for discussion).



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“Test All Kits” Laws

The question of evidence testing is often raised in media stories focused on the problem of untested evidence in sexual assault cases. In response to this problem, many states have passed laws to “test all kits” resulting from a sexual assault medical forensic exam. These laws raise several issues to address in any protocol for alternative reporting options:

- **Mandatory kit testing:** A specific exception may need to be made for anonymous or non-investigative reports, which applies both to current cases and past cases. If there is no such exception for testing in these cases, *victims must be informed of this fact*.
- **Victim notification:** In states where victim notification is required about the testing status of their evidence kit, alternative reporting protocols will need to comply with this. However, this procedure must be designed so it does not violate the victim’s anonymity or privacy.
- **Inventory of evidence kits:** Many of these laws also require law enforcement agencies to inventory the sexual assault evidence kits they have in custody. This process should distinguish between evidence associated with a standard versus alternative report.

For more information and supplemental resources, please see [Opening Doors](#).



Colorado has a statutory requirement for law enforcement agencies to submit evidence from all sexual assault medical forensic examinations to a forensic laboratory for testing within 21 days (“test all kits”). However, the legislature later passed an exception, **prohibiting law enforcement from submitting evidence for testing in connection with an anonymous report of sexual assault**.¹³

Can Evidence Be Returned to Victims?

If personal items are collected in connection with an alternative report, protocols may need to clarify what rights (if any) victims have for that evidence to be returned to them. This is a frequent source of concern for victims when the items are especially personal or valuable.

- **What kinds of evidence may be returned?** This option should be limited to clothing, bedding, or other tangible property. Biological evidence should not be returned to victims.
- **What are the procedures?** If the victim had law enforcement contact, an officer might be able to make the necessary arrangements with proper identification. If the evidence is being stored anonymously, this will be more difficult because some form of identification is typically required before evidence or property can be returned to its lawful owner.
- The [New Hampshire Exam Protocol](#) advises that, “The patient is informed that if she/he ultimately chooses not to report the crime to law enforcement, the unanalyzed evidence,

¹³ C.R.S. §18-3-407.5 (3)(d)



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including clothing, will not be returned but will be sent back to the police department for storage or disposal” (p. 18). The FAQs on evidence also address this point (Appendix N).

Evidence Destruction

Finally, victims should be notified – in writing, at the time of their report – how long any evidence will be stored, and when it will be destroyed. Some communities go a step further, and notify victims before their evidence is scheduled to be destroyed, so they are given another chance to consider whether they want to participate in a full investigation. This gives victims a final opportunity to convert their report and participate in the criminal justice system.

- In the [Cambria County Protocol](#), victims are notified (with consent) approximately 30 days before the storage period expires. A second attempt at contact can also be made.

Investigative Considerations

Beyond evidence, there are additional investigative considerations that may be helpful to address in an alternative reporting protocol. They apply to both traditional and alternative options, but a protocol can be a good place to emphasize core values and principles.

Trauma-Informed Practices

For instance, a great deal of attention has focused on the need for **trauma-informed approaches**. Any community offering alternative reporting options should work to ensure that officers and other professionals responding to these reports are well-educated in trauma.

Other trauma-informed measures can include conducting interviews in a place of the victim’s choosing (e.g., in their own home) or in a “soft” interview room. We have already highlighted the importance of encouraging victims to have an advocate or other support person present during investigative interviews or other law enforcement contacts. Such trauma-informed measures can increase victim comfort and their ability to participate in an investigation.



EVAWI offers many resources on trauma-informed responses on [our website](#), including training bulletins, webinars, videos, and other supplementary materials.

Safety Planning

Victims may also need safety planning, with support from law enforcement or other professionals. Areas of need can include transportation, living arrangements, protection orders, or other security precautions. Victims can be given referrals for available services.

- The [Ohio Protocol](#) lists some factors to consider during safety planning (p. 27-28).



Victim Preference Statements

When victims express reluctance about criminal justice participation, they have sometimes been presented with a form (often referred to as a release waiver) documenting their request to suspend or terminate the investigation. This practice places unnecessary pressure on victims to make a “now or never” and “all or nothing” decision, and it sidesteps the law enforcement agency’s responsibility to properly inform the victim, determine their wishes, and then pursue an investigation (with the victim’s consent, when they are able) to gather the facts and evidence.

Any real or perceived pressure put on these victims to report immediately may in fact discourage future or continued involvement in the judicial system (Cambria County Protocol, 2012, p. 7).

A better strategy is for law enforcement to courteously inform victims about their options and document their preferences. Furthermore, victims should never be described in any documentation as “uncooperative” or “declining prosecution.” Rather, reports should reflect the fact that victims are unable to participate in the investigation or prosecution “at that time.”



One helpful tool is the [Victim Preference Statement](#) developed by the Naval Criminal Investigative Service (NCIS). The form begins by confirming that victims have had an opportunity to consult with a victim advocate or counselor, and that they have been informed of their rights as a crime victim. By signing the form, victims recognize that “I may change my mind and provide information for this investigation at a later time.”

Not Arresting Victims

Another consideration is whether victims reporting their sexual assault will be arrested for any illegal behavior they may have engaged in. In many cases, victims have engaged in unlawful behavior such as underage drinking, recreational drug use, driving under the influence, sex work, or immigration violations. They may even have an outstanding warrant. For reporting options to be viewed with confidence by the community, law enforcement must reassure victims they will not be arrested for any such behavior, if possible.

- **If the victim has committed a felony or has an outstanding felony warrant**, this will typically need to be processed. However, even in this situation it is important that the sexual assault crime not be disregarded. Alternative response strategies are possible.
- **It is much more common for victims to be involved in misdemeanor offenses.** In many instances, these offenses can simply be overlooked, so the priority remains on responding to the sexual assault. However, this will need to be clearly addressed in an alternative reporting protocol. Please see [Opening Doors](#) for additional discussion.
- The [New Hampshire SART Protocol](#) clearly states that “A victim’s voluntary use of any illegal substance should not be grounds for their arrest, nor should it be a factor when determining the validity of the sexual assault” (p. 30).

Documentation and Review

Regardless of which pathway it takes, every report of sexual assault received by law enforcement will need to be **recorded in writing and assigned some type of incident number for tracking**. Even if the incident is outside the current statute of limitations, this information should be documented and retained in agency records. That way, information can be compared across all reports, if data fields are defined and used consistently.

Records Storage

As with traditional crime reports, alternative reports must be stored in a secure location within the law enforcement agency. However, this may not be in the Records Division, because standard retention policies for crime reports must be followed. Agencies may consider storing alternative reports somewhere other than the Records Division, like an Investigative Unit.

Intelligence and Analysis

When law enforcement agencies receive information through traditional and alternative reporting pathways, they have a more comprehensive picture of the sexual assaults being perpetrated in their community. Someone in the law enforcement agency can therefore be assigned to analyze data for intelligence purposes and to identify possible connections.

If alternative reports are received by any third-party entity, they may share responsibility for any such analysis. However, this may also raise important questions about professional roles and boundaries, as well as logistical and ethical issues pertaining to how the records will be stored, reviewed, and kept confidential. See [Opening Doors](#) for additional discussion.

Supervisory Review

Written reports are needed for supervisors to hold officers and investigators – as well as investigative units and entire agencies – responsible for every report of sexual assault they receive, regardless of which alternative path a victim takes. All reports should be reviewed for steps taken and the quality of documentation, in addition to case dispositions, to identify any concerns and training needs, as well as reviewing performance and rewarding quality work.

Reports should also be evaluated on a more systemic level. This can be accomplished by establishing a review committee, including other multidisciplinary professionals. Smaller agencies could even **develop a team of experts in sexual assault investigation, from the surrounding county or larger geographic region**. When officers do not respond to such cases very often, it can be difficult to feel confident in handling these complex scenarios.



To help establish a multidisciplinary review process for sexual assault cases, the Sexual Violence Justice Institute (SVJI) at the Minnesota Coalition Against Sexual Assault (MNCASA) offers [A SART Coordinator's Guidebook for Case File Review](#).



Final Considerations

Public Notification

Given that the whole point of alternative reporting options is to increase access for victims – both to the criminal justice system and community services – creating a response protocol is only half the battle. The other half is **ensuring that the public is aware of their options**, so they will reach out when they or someone they love has been sexually assaulted.



EVAWI's Start by Believing website offers detailed information for survivors and support people in a section titled [Explore Your Options](#), as well as public service announcements, media campaigns, and other agency websites for [public education](#).

Evaluating Protocol and Practice

As agencies, communities, and even states move forward with alternative reporting options, it will be critical to learn more about whether, when, why, and how they are being accessed by victims – and what happens to them. Data collection and analysis will be needed.

The lack of confidential reporting can create a picture-perfect community but not always a safe one (Garcia & Henderson, p. 5).

- For guidance on evaluation questions and sample resources, see [Opening Doors](#).
- The [Ohio Protocol](#) also includes a brief description of *Quality Assurance Measures* to better understand the process and outcomes of medical forensic examinations and the coordinated community response (see [Appendix 7](#), p. 1-3).

It is also important to remember that prosecution is not the only measure of “success.” Are we increasing pathways for victims to access services and support? Are we changing the culture of law enforcement response and collaboration among community partners?

Supplemental Materials

Because written protocols serve as a reference document, it can be helpful to include all the necessary materials in one place. This adds to the length of the document, but many of these supplementary materials can go in an Appendix to keep procedural elements streamlined:

- Informational materials for victims
- Consent forms to document victim preferences
- Exam documentation forms (including body diagrams)
- Resources on strangulation (including assessment tools and care instructions)

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- Explanation of exam billing (including the procedures, forms, and additional links)
- Information on the Health Insurance Portability and Accountability Act (HIPAA)
- Explanation of crime victim rights (with links for more information)
- Information about Crime Victim Compensation (with sample materials and links)
- Information on protective orders (with links for more detail and procedures)
- Contact information for primary agencies involved in sexual assault response

Many of the protocols cited in this guide include such supplementary materials in an Appendix, but the [New Hampshire Exam Protocol](#) is particularly comprehensive.

Conclusion

The goal of alternative reporting procedures is to increase victims' access to services and support, and preserve their viable options within the criminal justice system. Otherwise, they will amount to a false promise. When developing a multidisciplinary protocol, it can therefore be helpful to evaluate specific policies and practices in terms of the two guiding principles:

- **One Step at a Time:** Does this policy or practice support a *gradual* process of disclosure and reporting (rather than “all or nothing,” and “now or never”)?
- **Opening Doors:** Does it increase the number of options available for victims to report their sexual assault to law enforcement and access services and support?

With this framework in hand, professionals can analyze specific policies and practices, to consider incorporating them in a protocol or reforms undertaken on an even larger scale.

