

District 15B District Attorney's Office **Guidelines Adopted For Prosecution Of** **Sexual Assault Cases**

The following are the policies adopted by the District Attorney for District 15B regarding the prosecution of sexual assault cases. Successful prosecution of sexual assault cases requires a unique combination of skill, patience and sensitivity. These policies are designed to ensure that the District Attorney's office makes every effort to support victims of sexual assault, prosecute cases appropriately, and uphold the laws of the State of North Carolina and the Constitution of the United States.

POLICIES

GENERAL

1. **Case Priority** The District Attorney's (DA) Office intends to prosecute sexual assault cases aggressively. The DA's Office intends to move these cases through the system with as few delays and continuances as possible.
2. **Prosecutor Assignment** The assistant district attorney assigned to the case should follow the case through to the end. The DA's office will make all efforts to reduce "bouncing" sexual assault cases from one prosecutor to another.
3. **Designated Prosecutor Training** In order to be an effective trial advocate, the designated prosecutor should attend formal training to increase understanding of distinct legal, procedural, and evidentiary issues involved in sexual assault cases.
4. **Community Resources** Understanding that good rapport with community resources is a significant aid to successful prosecution, the DA's office will refer victims to community resources, such as a sexual assault agency, when appropriate.
5. **Public Education** The district attorney's staff should participate in training of sexual assault advocates and law enforcement agencies upon request.

VICTIMS

5. **Terminology** The DA's office should use the words "victim" or "survivor," rather than "prosecutrix" or "prosecuting witness," when referring to a sexual assault victim. The DA's office will follow orders of the court as to the proper reference for sexual assault victims in the courtroom.
6. **Privacy** The DA's office will make every effort to protect the privacy of the victim, especially in the early stages of prosecution or case development. The office will make every effort not to give any information about sexual assault victims to reporters and will attempt to schedule the public court appearance as the last matter of business when there are likely to be few spectators present.
7. **Crime Victims' Rights** North Carolina law mandates that district attorneys provide a variety of information and services to victims of sexual assault. The office will

keep up to date on requirements established by the Fair Treatment of Victims and Witness Act and the Crime Victims' Rights Act. The victim witness coordinators/legal assistants should work with victims to insure that requirements are fulfilled. This includes providing written materials as follows regarding the following: the right to confer with the prosecutor about the disposition of the case, the right to provide a victim impact statement, District Attorney's responsibilities, information on eligibility for Crime Victims Compensation Funds and deadlines for filing claims, steps generally taken in prosecuting felony cases, suggestions on what to do if threatened or intimidated, name and telephone number of a victim witness coordinator/legal assistant in the district attorney's office whom the victim may contact for further information. The DA's office will provide this information to the victim as soon as possible at least within 21 days after the arrest of the accused, but not less than 24 hours before the first scheduled probable-cause hearing.

8. **Victim Contact** In order to assess the strength of the case, prosecutors should interview the victim early in the process in order to ascertain the concerns and wishes of the victim, and to consider these throughout the prosecution. The prosecutor should explain the criminal process in layperson's terms to prepare the victim for the possible emotional trauma associated with court proceedings. Prosecutors should be sure to discuss case weaknesses and cross-examination, explain the rape shield law to the victim and explain that the victim has the right to be present throughout the entire trial, subject to the right of the court to sequester witnesses.

9. **Report Progress** The DA's office should keep in regular contact with the victim to advise the victim of the progress of the case.

10. **STD Testing from Defendant** Inform the victims that they have the right to request that the defendant be tested for sexually transmitted diseases (STDs). Upon the victim's request, file an appropriate motion. The elected district attorney must sign this motion.

11. **Defense access to victim** As soon as possible, the DA's office should advise victims that they can speak with whomever they choose, but are not required to talk with anyone, including the defense attorney and any private investigator. Victims should be advised of the dangers of giving multiple statements. Victims occasionally confuse the defendant's attorney or private investigator with the prosecutor's staff. As early as possible, the DA's office should inform victims of the names of personnel who may be contacting them from the DA's office.

12. **When a Victim Comes to Court** The DA's office should make every effort to limit the amount of time victim's spend waiting in court and appearing unnecessarily to avoid unwanted contact between victims and defendants. Victims should be advised that they can bring family and friends to court, as well as a sexual assault advocate and/or a victim witness coordinator/legal assistant.

PROCEDURES

13. **Bond** The DA's office should request special conditions on the bond to protect the victim, due to the vulnerability of the victim and the seriousness of the crime.

14. **Subpoenas** Subpoenas should be issued to the victim to ensure witness fees and mileage, when available. The DA's office should also personally notify the victim of when to appear for court.

15. **Photographs** The DA's office should request any photo documentation made by law enforcement officials, medical personnel, and/or advocates.

16. **Probable Cause Hearings** Victims may be called upon to testify at probable cause hearings. The DA's office should make every effort to call these hearings when much of the day's business has been disposed of in order to avoid a large group of spectators hearing sensitive testimony.

17. **Grand Jury** The investigating officer testifies before the grand jury. Victims are not generally expected to appear before the grand jury.

18. **Plea** A plea is often appropriate in a sexual assault case, since it spares the victim the ordeal of a trial. It also erases the uncertainties of a jury trial and minimizes appeals. The DA's office will always attempt to consult with victims in advance about possible plea agreements and explain the reasoning for it.

19. **Dismissal** If a case is to be dismissed, the prosecutor will inform the victim that the case will be dismissed if the victim can be located prior to entry of the dismissal.

SENTENCING/POST-TRIAL

20. **Victim Impact Statements** The DA's office will give victims prior notice of their rights at sentencing under the Crime Victim's Rights Act. According to the Crime Victims' Rights Act, a victim has the right to offer admissible evidence of the impact of the crime and to have the evidence considered. This evidence may include: descriptions of the nature and extent of any physical, psychological, or emotional injury suffered; explanations of any economic or property loss suffered; and/or requests for restitution, accompanied by information about possible compensation under the Crime Victims Compensation Act. A victim impact statement should be prepared in advance and presented to the judge at the sentencing hearing.

21. **Post-Trial Notices** The DA's office will notify victims of the outcome of the case within 30 days after the final trial court proceeding. The DA's office will inform victims how they can obtain information regarding the defendant's movement through the Department of Corrections.

22. **Restitution** The DA's office will inquire whether the victim has incurred expenses for medical diagnosis or treatment, counseling, and damage to property and will make the appropriate request for restitution to the court.