



WINONA COUNTY

SEXUAL ASSAULT INFORMATIONAL PACKET

Prepared by: Winona County Sexual Assault Interagency Council (SAIC)

WINONA COUNTY SEXUAL ASSAULT INTERAGENCY COUNCIL (SAIC)

“Our mission is to coordinate an effective interagency and community response to sexual assault, serving all victims and seeking justice”

- The Winona County SAIC is comprised of various agencies who respond to incidents of sexual assault. These agencies include law enforcement agencies, prosecutors, human and social service professionals, victim advocates, medical staff and local university staff. The council strives to improve the criminal justice system response to sexual violence.
- The Winona County SAIC is one of twelve teams across the State of Minnesota. The team formed in 1998 and has been continually working on improving the community and system response to sexual violence.

WINONA COUNTY SAIC TEAM:

- Winona Police Department
- Winona County Sheriff's Office
- St. Charles Police Department
- Lewiston Police Department
- Goodview Police Department
- Winona County Attorney's Office
- Winona Department of Human Services
- Women's Resource Center of Winona
- Winona State University
- St. Mary's University of Minnesota
- Minnesota State College Southeast
- SEMCAC
- Minnesota Department of Corrections
- Winona Health Emergency Department
- Family and Children's Center

DEFINITIONS

Sexual Assault: Any sexual act directed against another person, against that person's will or where the victim is incapable of giving consent. This includes rape, sodomy, sexual assault and fondling.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors and other unwanted conduct of sexual nature.

Consent: Consent requires words or conduct indicating a freely given agreement to participate in sexual activities. Consent does not mean the existence of a prior or current relationship between people or that one failed to resist a particular sexual assault. A person who is incapacitated or physically helpless cannot consent to a sexual act.

WHAT TO DO IF YOU ARE ASSAULTED

If you have been sexually assaulted, you may consider the following:

- Make sure you are in a safe place
- Contact a friend or family member you trust or call an advocate (Advocacy Center of Winona @ 507-452-4440 or 24 hour crisis line @ 507-452-4453)
- Seek medical attention
- If you wish to report, contact your local law enforcement agency (Winona County Dispatch 507-457-6491)

When a sexual assault occurs, evidence collection can be crucial. To preserve any evidence follow these recommendations:

- If possible, keep clothing and avoid washing
- If possible, refrain from showering or eating and drinking
- If possible, do not rearrange or clean up the place where the assault occurred

HOW TO HELP SOMEONE WHO HAS BEEN SEXUALLY ASSAULTED

Consider the following guidelines:

- Believe the victim/survivor.
 - Statements such as "I believe you." and "It wasn't your fault" can be helpful.
- Make sure they feel safe in their location.
- Do not blame the victim/survivor: It is very common for the victim/survivor of a sexual assault to blame themselves. Reassure them that the assault is not their fault.
- Listen to the victim/survivor: Try to understand what the victim/survivor may be going through. Do not interrupt. Ask what the victim/survivor might need from you.
- Stay with the victim/survivor.
- Let the victim/survivor make their own decisions.

VICTIM RIGHTS IN MINNESOTA

Rights to be Notified of...

- Victim rights
- Changes in court schedule if you are asked to testify
- Contents of plea agreements
- Final disposition of the case

Rights to Participate in Prosecution...

- Right to request a speedy trial
- Right to have input in pre-trial diversion
- Right to object to plea agreements
- Right to present a victim impact statement
- Right to be present at plea and sentencing hearings

Rights to Protection from Harm...

- Right to a secure waiting area during court proceedings
- Right to request identifying information be withheld in open court
- Right to request HIV testing of an offender in a sexual assault case
- Employers may not discipline or dismiss victims who are called to testify in court
- Tampering with a witness is a crime and should be reported

Right to Apply for Financial Assistance...

- Victims may be eligible for financial assistance from the State or the offender if they have suffered an economic loss as a result of the crime

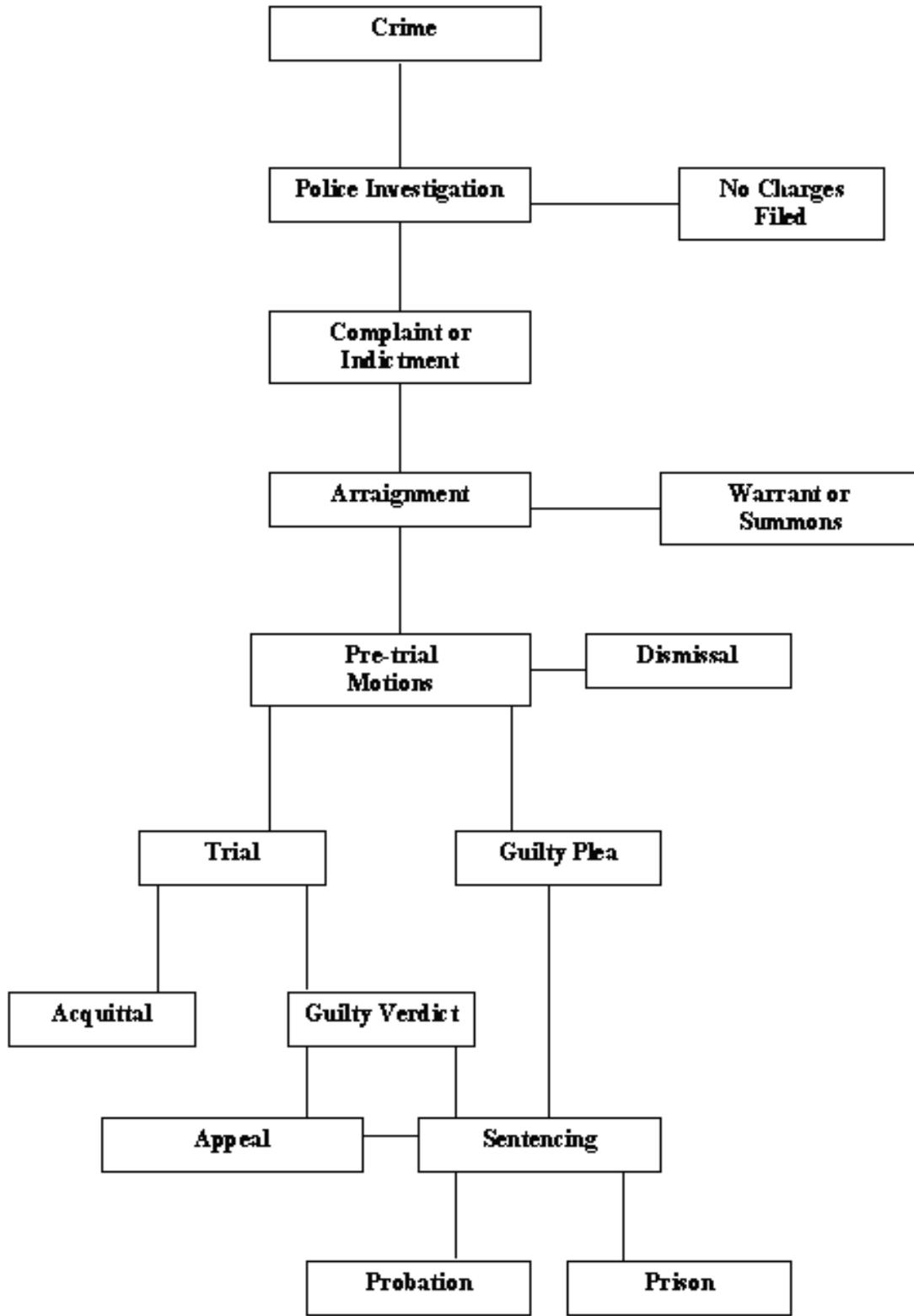
MEDICAL FORENSIC EXAM INFORMATION

In Minnesota, victims of sexual assault who have an evidentiary exam done for the purpose of gathering evidence of sexual assault need not pay for that service. Minnesota Statute § 609.35.

The exam is designed to capture any physical evidence, such as hair, fibers, bodily fluids from the assailant, as well as to note any observable injury or trauma. The goal of the exam is to locate and preserve anything that will prove an assault occurred and identify a suspect. The kit may be processed by the Bureau of Criminal Apprehension (BCA) at the time the victim decides to make a report to law enforcement. At the time of an exam, medical personnel will also screen for and provide treatment for medical conditions that may require treatment, such as sexually transmitted infections, pregnancy, and physical trauma. The statute is specific to costs of evidence collection but not treatment of injury.

In Minnesota, the county in which the assault occurred is responsible for covering the cost of the exam when evidence is collected from the exam. The victim does not have to report the assault to law enforcement in order for the county to pay. The covered costs include, but are not limited to: full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.

CRIMINAL COURT SYSTEM FLOW CHART



CRIMINAL COURT SYSTEM GLOSSARY OF TERMS

Crime - A crime is an act which could be punishable by county jail and/or state prison.

Police Investigation - When a crime is reported to police, they will likely conduct an investigation by interviewing those involved and by gathering physical evidence and photographs.

No Charges Filed - After police complete an investigation, they will normally send the reports to the prosecutor for review. If the police have not identified a suspect, or if it appears that there is insufficient evidence to convict any suspect, the prosecutor may decline to file charges against anyone.

Complaint - Once the police complete an investigation, the prosecutor will review the police reports and decide whether a crime should be charged. This is normally done when the prosecutor drafts a complaint, listing a summary of the events that took place and naming the criminal offenses the person is said to have committed.

Summons - More often than not, a summons is issued informing the suspect that he or she has been charged with a crime, and informing him or her that they must appear in court on a certain date.

Warrant - If the suspect fails to show up for court, the court may issue a warrant, which allows the suspect to be arrested by law enforcement.

Pre-trial Motions - During the series of court appearances, a criminal defendant may make motions to "suppress" (or exclude from evidence) certain pieces of evidence collected during the police investigation. The defendant might also ask the court to dismiss the charges. These motions are based on either the legal restrictions on what police can do when investigating, or the rules of evidence admissible in court, or other limitations in the law.

Dismissal - If it becomes clear that the prosecutor cannot prove the criminal case, the charges might be dismissed. Whether charges may be brought again in the future depends upon the circumstances, but the criminal proceedings are over unless new charges are brought.

Guilty Plea - Some criminal defendants plead "guilty" to some crime after being charged by the prosecutor. The defense attorney and prosecutor will have plea negotiations, where they try to reach a fair result, and will usually agree on what crime the defendant will plead guilty to and a set range of sentencing options to argue to the court.

Trial - The defendant may choose to plead "not guilty," and has a right to demand a trial to determine whether he or she is guilty. At the trial, the prosecutor will call witnesses to testify in person. The prosecutor will also present the other evidence and photographs obtained by the police. It must be proven to the jury or judge beyond a reasonable doubt.

Acquittal - If the judge or the jury decide that the case has not been proven beyond a reasonable doubt, the defendant will be acquitted. This means that the defendant has been found "not guilty."

Guilty Verdict - If the judge or the jury believe that the prosecutor has proven the case beyond a reasonable doubt, the defendant will be convicted. This means that he or she has been found "guilty."

Sentencing - If the defendant is found guilty, or pleads guilty, the judge will decide upon a sentence that the defendant must serve.

Appeal - A defendant has the right to appeal to a higher court about either the conviction itself, or the sentence that was imposed. The Court of Appeals will review and determine whether any mistakes were made which were serious enough to require a new trial or a new sentencing.

Prison - The judge may sentence the defendant a prison term. If the defendant goes to prison, he or she will likely serve approximately 2/3 of the sentence in prison, with 1/3 the sentence on supervised release after release from prison.

Probation - The judge may sentence the defendant to go on probation. While on probation, the defendant will have to meet certain requirements.

CIVIL COURT SYSTEM

Sexual assaults are violations of civil law as well as criminal law. Some people turn to civil court as an option for winning money or to keep the offender from having contact with the victim/survivor.

Suing for Damages in Civil Court - This means that when an individual has been sexually assaulted, he or she may sue for damages in civil court as well as reporting to law enforcement for a criminal investigation. A big difference between criminal and civil court is that the burden for winning civil damages is lower (a preponderance of evidence) than in criminal court (proof beyond a reasonable doubt).

When a person sues civilly, the purpose is to win money damages from the offender to pay for medical or counseling bills, lost wages, pain and suffering, and possibly as a means of punishing the offender by ordering payment of money. For this reason, civil attorneys will usually only sue an offender who has the ability to pay large sums of damages, as the attorney's fee is based on the money damage award. Thus, only a small percentage of cases of sexual assault result in a civil court proceeding as well.

Harassment Restraining Order and Order for Protection - Another form of civil remedy besides suing for damages is to obtain a harassment restraining order (HRO) or order for protection (OFP). The purpose of these documents is to have a court order that the offender have no contact with the victim/survivor, including staying away from the residence or work place. Violation of these orders is a crime, with the punishment depending upon whether the offender has violated similar orders in the past.

An HRO is used where there is little or no relationship between the offender and the victim/survivor. Thus, when they live in separate households or have been dating for a short time, an HRO is probably appropriate. An OFP is used where the two people live in the same household, have a child in common, or have a significant dating relationship.

WINONA COUNTY SAIC MEMBERS

Winona Police Department

- 201 West 3rd Street Winona, MN 55987
- (507) 457-6302

Winona County Sheriff's Office

- 201 West 3rd Street Winona, MN 55987
- (507) 457-6368

St. Charles Police Department

- 830 Whitewater Ave St. Charles, MN
55972
- (507) 932-4500

Lewiston Police Department

- P.O. Box 129 Lewiston, MN 55952
- (507) 523-2534

Goodview Police Department

- 4140 West 5th Street Goodview, MN
55987
- (507) 452-1500

Winona County Attorney's Office

- 171 West Third Street Winona, MN 55987
- (507) 457-6310

Department of Human Services

- 202 West Third Street Winona, MN
55987
- (507) 457-6200

Advocacy Center of Winona

- 100 Latsch Square #201 Winona, MN
55987
- (507) 452-4440

Winona State University

- 175 Mark Street Winona, MN 55987
- (507) 457-5160

St. Mary's University of Minnesota

- 700 Terrace Heights Winona, MN 55987
- (507) 457-1587

Minnesota State College Southeast

- 1250 Homer Road Winona, MN 55987
- (507) 453-2700

SEMCAC

- 76 West Third Street Winona, MN 55987
- (507) 452-4307

Minnesota Department of Corrections

- 370 West Second Street Winona, MN
55987
- (507) 205-6100

Winona Health Emergency Department

- 855 Mankato Avenue Winona MN
55987
- (507) 454-3650

Family and Children's Center

- 601 Franklin Street Winona MN 55987
- (507) 453-9563

For more information about the Winona County SAIC, please contact the Coordinator at (507) 457-6310