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## Endnotes

<sup>1</sup> 📞 This section represents any institution or group that has its own internal complaint and adjudication process for sexual misconduct. Other examples are some religious denominations, businesses, the military, unions, or a civil justice process. For this example we have used a University system. Within that system there would also be many different departments. A matrix such as this could be customized for the alternate complaint setting, identifying comparable roles in the column headings. For the purposes of this matrix, we are interested in raising the question about how these processes might intersect with the criminal investigative process in a victim-centered response. Several different roles could be considered in this column (i.e. security, university administration, student advocate, counseling).

<sup>2</sup> 📄 Correct spelling and placement of first and last name is important—this is different in some communities (i.e., some Asian names are typically given as surname and then first name, may also be multiple names). If there is time to clarify this with the caller on the initial call, it may be helpful to do so as investigative efforts (interviewing people, researching prior history, etc.) may be more successful with this clarification. 🏠 Corrections would become involved at this early stage if the suspect is under correctional supervision.

<sup>3</sup> ⚠️ Caution—depending on the specific community, it may not be safe to leave the victim in the home. 📄 Remember to question victim about safety issues, regarding the assailant and the community at large. The community could be a safety issue for some victims of sexual assault. The use of the local women’s shelter/safe home network may be a good resource. It is helpful to know these resources in advance, or to team with other professionals (i.e. cultural specific advocates, public health, etc.) who can help locate the most culturally appropriate resources available.

<sup>4</sup> 📄 Request the information needed to provide effective services, balanced with awareness that victim/survivors may want to maintain privacy around certain information. For example, a call to dispatch through 911 will likely require more identifying information from the victim/survivor in order for services to be dispatched than will a call to 24-hour crisis line where the caller may simply want support or accurate information. 📄 Correct spelling and placement of first and last name is important—this is different in some communities (i.e., some Asian names are typically given as surname and then first name, may also be multiple names). If there is time to clarify this with the caller on the initial call, it may be helpful to do so as it can help responders know how to ask for or address someone, and it can improve the chances of effectively tracking the case in the future.

<sup>5</sup> 📄 Determine the need for interpretive services (sign or language). Some jurisdictions have developed lists of certified interpreters highlighting any areas of specific knowledge (i.e. courts, medical, social services). In some instances counties have worked out contract language and a payment range with interpreters. A good interpreter is invaluable to a case. Likewise assessing for any potential conflicts of interest between the interpreter (or any team member) and the victim/survivor is essential ( see references list for MN Supreme Court Interpreter Advisory Committee: Best Practices Manual On Interpreters in the Minnesota State Court System (1999) for use of interpreters). Consider involving culturally specific advocacy, if available, even if a language interpreter is not needed. Also consider and assess for other accessibility issues. 🏠 If culturally specific advocacy program exists, contact them. If Sexual Assault Nurse Examiner (SANE) program exists, involve that resource per policy. Mental health is likely to be involved early in situations with survivors who are vulnerable adults.

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<sup>6</sup> 🏠 🗣️ Notify needed support services with victim/survivor's permission, without overwhelming her with decisions. In particular, involving advocacy can add a team member who can carry on the assessment of other needed services with continued focus on the victim/survivor's needs. The mechanism for making such referrals should be negotiated by the SAIC and response team. One option being used currently in some communities is to explain to the victim/survivor that the advocate is part of the response team in your community. Explain further that you would like, with the victim/survivor's permission, to invite an advocate to come and talk with the victim/survivor about the help they can offer. Do not assume that communities of color and other special populations will want someone from an advocacy program that has special out reach to their community. Give them the information so that they can make an informed choice. When notifying other agencies of the need of support services, please make them aware what was learned in the original assessment for specialized needs. Review a release of information with the victim/survivor if necessary in accordance with agency guidelines prior to involving other services. The Department of Public Safety operates a statewide toll-free 24-hour phone line for referrals for victim services. The phone number for this line is 1-800-247-0390. This line is operated by the Office of the Crime Victims Ombudsman.

<sup>7</sup> 🗣️ Basic assumptions are sometimes made by the location of the call. If it is the low income section of town or a part of the community that is highly populated by a specific cultural community there may be a perception by those in that community that law enforcement will not take the incident seriously and respond slower, if at all. In this case it can become a potential safety issue not only for the victim but all involved.

<sup>8</sup> 🗣️ A victim's desired support person may or may not be a family member. It could include a friend, extended relative, spiritual guide/leader/mentor.

<sup>9</sup> 📄 🗣️ Every agency should develop these guidelines, coordinating the response as needed.

<sup>10</sup> 🗣️ This interaction can provide an important beginning in the justice-making process for the victim/survivor. Acknowledge the violation, hear the abuse and condemn it as wrong. Provide compassion and listen for the victim/survivor's description of harm done.

<sup>11</sup> 🗣️ ➡️ Assess need to specialize response given the victim/survivor's age, cognitive abilities (i.e. vulnerable adult), cultural background, language, mental health issues, etc. Determine need for medical attention, safety planning, additional support services. Present the various complaint options: criminal investigation, investigation from institution (i.e., university, religious institution, professional board), and civil justice process.

<sup>12</sup> For more information on single-session debriefing, see *The Rape Victim: Clinical and Community Interventions* by Mary P. Koss and Mary R. Harvey, Second Edition, Sage Publications, 1991 (p. 159-157). This is not to suggest that effective counseling post-assault only takes one session or that the healing process is short. Neither is true. However, there are instances in which responders may only have one opportunity with a victim/survivor, or at the very least do not know if they will return. The reference mentioned simply identifies a helpful approach to making that one interaction helpful for the victim/survivor.

<sup>13</sup> 🗣️ 📄 For example, if corrections officer learns about a probation violation, information may not be confidential. Victim should be informed of this possibility. While the issue of privacy is important to all victims it is especially of concern to diverse populations and can affect their safety. ☑️ MN Statute 13.82 specifies that the identify of sexual assault victims is private law enforcement data and cannot be released to the public. It is important to note that this statute governs law enforcement data only. Separate inquiries should be made into the privacy of victim's data with other governmental agencies (i.e. prosecution, court administration, corrections) as the case progresses. ]

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14 🌀 If culturally specific advocacy programs do not exist in the community, remember statewide cultural specific programs as a resource. Be aware of the changing demographics in the community and the need for special programs. SAIC members could collaborate on looking for funding resources to start a new program based on the needs of the community.

15 📍 🌀 Team members should have a good awareness of available community resources. If the eight-step Protocol Development Cycle has been followed, an “Inventory of Existing Services” should have been produced and shared with all participating agencies. Do not assume that communities of color and other special populations will want someone from an advocacy program that has special outreach to their culture. Give them the information so that they can make an informed choice. Providing some information about what the other services have to offer (i.e. tracking the court case, helping to access emergency funds, supportive counseling) improves the likelihood that a victim/survivor will follow-up with referrals given.

16 🌀 ☒ Address more than criminal complaint processes. 📁 Options are case dependent given nature of sexual assault. Some additional complaint avenues options may include: professional boards, university system, employer, a religious institution, the military, and/or a civil suit. 🏠 If this happened at a college or university or within another institution, consider and address the possible teaming that may need to occur. ☒ MN Statute 611A.79 provides that a person who is the victim of a bias offense has a civil cause of action against the person who committed the offense. MN Statute 611A.81 indicates an individual has a civil cause of action against a person who coerced the individual into prostitution.

17 ⇄ If written information is given, use material translated into the victim/survivor's written language if available. 🌀 Include referrals to culturally specific resources as indicated.

18 🗨️ Including the ability to refer to other agencies, possibly share information within the SAIC (if the monitoring plans include it), for case tracking. 📄 📁 The nature and scope of releases needed is case dependent and specific to a given agency. Understand that victim/survivors may have concerns about who has access to information about their assault. Ask if this is the case, and discuss how to best preserve her privacy while facilitating a coordinated response. If information is to be released, be clear about the scope of that information and the mechanism for the victim/survivor to withdraw her consent if necessary.

19 📍 🗨️ Follow-up plan could include: a check to see how referrals went, see victim/survivor for another appointment, check on them in a specified timeline to see what they are needing—professionals could be mindful of research findings that suggest shorter timelines closer to the assault are warranted—if it is a delayed report, or victim refuses contact, a longer length of time between this contact and the next is acceptable.

20 🌀 Explanation about what this means should be given to diverse cultures. Sometimes there is a custom for performing spiritual ceremonies. These kind of ceremonies should be given consideration by an assessment made of what they would like to do and if it will interfere with preserving the evidence.

21 🌀 ⇄ Assess the need for an interpreter (sign or language), consider other accessibility issues, and involve culturally specific advocacy if available and indicated.

22 ☒ 🌀 MN Statutes 609.342-609.3451 address 1-5<sup>th</sup> degree criminal sexual conduct. MN Statute 609.341 lists definitions for these statutes. Other statutes may also apply. In addition, consider whether elements of bias motivated the crime. Minnesota law allows for a penalty enhancement for an act that is criminal and motivated by bias. Attention should be paid not only to sexual assault victim/survivors from communities of color, but to other victims from under-served populations (i.e. sexual orientation, physical and mental abilities.). ☒ MN Statute 609.2231 Assault in the fourth degree provides for

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assaults motivated by bias. MN Statute 609.749 provides for harassment and stalking penalties. MN Statute 626.5531 provides for peace officer requirement for reporting of crimes motivated by bias. See the statutory language for complete description of the requirements. Assess for elements of incident that may *require* involvement of law enforcement (if not already involved) and adult or child protective services per mandated reporting statutes. 📞 Notify and involve these services as necessary. Explain to the victim/survivor the nature of the notification and the follow-up they can expect unless it would severely jeopardize the investigation and/or the safety of another.

<sup>23</sup> 🚒👤🗣️ If the incident happened in another jurisdiction, follow agency policy for response. It is likely that a uniformed officer will respond to the victim/survivor to further assess and contact other relevant agencies.

<sup>24</sup> 🌀 Law enforcement should be aware that in communities with significant distrust of law enforcement, a large crowd may assemble or alternatively no one will respond. In these situations, knowledge of the cultural beliefs and values of the community or group can be invaluable. Even officers' body language can convey a lot.)

<sup>25</sup> 🌀🗣️🚒👤🗣️📄 Involve an advocate (culturally specific advocacy services if available), interpreter, and additional support persons as indicated. If child or adult protection is warranted, inform them. Consider when to call in an investigator, evidence technician, and other investigative resources as needed. If suspect is employed by responding law enforcement agency, contact administration, or internal affairs to determine appropriate complaint investigation procedure. In this situation, be certain victim/survivor is informed of difference between proceeding as an administrative versus criminal complaint process.

The Department of Public Safety operates a statewide toll-free 24-hour phone line for referrals for victim services. The phone number for this line is 1-800-247-0390. This line is operated by the Office of the Crime Victims Ombudsman.

🚒 In a SANE or SART (Sexual Assault Response Teams) approach, this interview with law enforcement may occur at the hospital. This is indicated by the communications linkage with the hospital throughout this section. Role assignments are highly dependent on how individual law enforcement departments are structured. Who gets involved from law enforcement should be addressed by the SAIC as it writes its own protocol.

<sup>26</sup> 🗣️ Limit the scope of inquiry to only what is needed to determine next steps since it is likely the victim/survivor will be interviewed in more complete detail (to establish the elements) later. This limits the number of detailed interviews for the victim/survivor.

<sup>27</sup> 🌀 Involve an advocate (culturally specific advocacy services if available) and interpreter (language or sign). 🚶 Providing someone who can walk through the process with the victim/survivor can help with the understanding of the system, help with trust issues with diverse populations and is part of a compassionate response.


<sup>28</sup> 🗣️🌀 Determine what happened, how the victim/survivor was affected, what immediate steps can be taken to fulfill the victim/survivor needs, where did it happen, who did it, and if this is a sexual assault (elements of criminal sexual conduct are present). Can also combine with interview at hospital, so the need for victim to repeat the story is minimized.


<sup>29</sup> 🚒 Ask if the victim/survivor wants an advocate or support person in the interview with them. Make sure they understand the advocate's role and how they can be of assistance.

<sup>30</sup> 🌀📄 A victim's desired support person may or may not be a family member. It could include a friend, extended relative, spiritual guide/leader/mentor. Assess the support person's interests, abilities, and suitability in determining the nature and scope of information to share with them.




<sup>31</sup> 📄 Most law enforcement agencies distribute a wallet-sized card that contains a listing of crime victims' rights, the nearest crime victim assistance program or resource, and typically a spot for the report number. The card should be reviewed and updated periodically to ensure all reference information on the card is correct. Model notification


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cards and brochures are available from the Minnesota Center for Crime Victim Services: 1-888-622-8799 or 651-282-6256.  Under MN Statute 611A.02 “Notice of Victim Rights” police officers are required to notify victims of several rights including the right to apply for reparations, request the law enforcement agency to withhold public access to data revealing their identify, the nearest crime victim assistance program or resource, and the right (if the victim is charged) to be informed and participate in prosecution, including the right to request restitution. See the statutory language for a complete description of the requirements.




<sup>32</sup>  Under MN Statute 611A.66 “Police Notification of Right to Reparations” all law enforcement agencies shall provide victims of crimes they are investigating with notice of their right to apply for reparations with the telephone number to call to request an application form.

<sup>33</sup> It is important to answer questions such as: What will happen to the report? What is and is not public data? Who will have access to the information the victim/survivor has given? Also, consider asking for the victim/survivor’s permission (through a signed release) to share some basic case information between responding agencies in order to track the case for purposes of case monitoring and share with the SAIC, if appropriate. This procedure should be clearly established by the SAIC prior to implementation so that questions about the need for and nature of the information to be exchanged can be clearly and accurately answered. It is also critical that the victim/survivor’s participation in the response monitoring process be a true choice.

 Where the victim/survivor does have options, give them. For example, a victim/survivor may want to know when law enforcement expects to interview the alleged assailant to make effective decisions around their safety at that time. In some instances, a victim/survivor may request more time to consider whether they are ready to have the case fully investigated, or simply may want time to inform an important support person prior to having the case move forward. These options are case-specific and often agency dependent.  A victim-centered response would dictate that where these concerns can be accommodated, we make every effort to do so.  MN Statute 13.82 specifies that a sexual assault victim’s identify is private data and cannot be released to the public. It is important to note that this statute governs law enforcement data only. Separate inquiries should be made into the privacy of victim’s data with other governmental agencies (i.e. prosecution, court administration, corrections) as the case progresses.

 Identify through agency policy and statutory obligations when it is necessary to have the victim/survivor give their permission to release information through a signed release. Try to minimize the paperwork for the victim/survivor while still protecting and ensuring their privacy rights.

<sup>34</sup>  Offer information about Orders For Protection (OFP, see MN Statute 518B.01) and Harassment Restraining Orders (HRO, see MN Statute 609.748), with complete information about process and referrals for assistance. Caution: If filing an OFP or HRO remember the victim/survivor’s name and address might need to be withheld. If withholding her identifying information is not possible the victim/survivor needs to know.  These remedies should be considered on a case by case basis as they may not be the first or best elements of a safety plan in a given case.

<sup>35</sup>  MN Statute 629.73 provides that prior to the release of a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence from pretrial detention, the agency having custody of the offender must orally inform the victim of the conditions of release; time of release; time, date, and place of next scheduled court appearance and the victim’s right to be present; and the location and phone number of the local sexual assault program. As soon as possible after release of the offender, the agency must send written notice of the above information to the victim.   Discuss preferred arrangements for notifying victim/survivors in advance to determine where they should be contacted, if it is appropriate to leave a message, how to reach them if an

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interpreter is needed. The address the victim/survivor gives to law enforcement is also the address that other criminal justice agencies (including prosecutor's office, corrections, court administration) may use to notify of court hearings and proceedings. If a victim/survivor wants such notification, she should be encouraged to report any change of address and ask for another person name and address who will always know the location of the victim so she can be reached with information about release.

<sup>36</sup> 📄 👤 Follow established hospital policy. If the victim/survivor presents to the emergency department within 72 hours of the sexual assault, an evidentiary kit should be taken. While the most significant physical evidence is typically gained within 36 hours of the assault, some collection is still possible beyond that. 🚑 To avoid missing information, jointly assess the options with other response team members if the victim/survivor is making a delayed report. If the victim/survivor has reported the assault, coordination with the law enforcement investigator can help to determine the scope of the exam and evidentiary collection. Most will likely follow the 72-hour guideline suggested by the Minnesota Bureau of Criminal Apprehension.

<sup>37</sup> 🚑 🔄 Include an assessment of whether interpretive services of any kind are needed, call an advocate if not already involved. Involve culturally specific advocacy services as indicated. ✂️ If SANE program exists, contact nurse per policy. The remaining steps allocated to a hospital would likely involve the SANE practitioner, make changes as necessary if this program is involved. For more information on a SANE program and recommendations for the forensic exam, see the SANE Development and Operation Guide by Linda Ledray. See References for further information.

<sup>38</sup> 🤝 🔄 🚑 Involve an advocate (culturally specific advocacy services if available), interpreter, and additional support persons as indicated. If child or adult protection is warranted, inform them. Consider when to call in an investigator, evidence technician, photographer for injuries as needed.

<sup>39</sup> 🚑 🤝 🚑 Ask the victim/survivor if they want advocate or other support person in the exam room with them. In some areas the advocate is considered part of the hospital's response team and will automatically be called to participate. 🤝 🚑 Ask the victim/survivor if they would like a culturally specific advocate and inform advocacy program of victim's preference.

<sup>40</sup> 👤 Explain medical and legal purposes of the exam, privacy of information & tests given, payment options for exam, and the actual exam components. 🤝 If written information is given, use material translated into the victim/survivor's written language if available. Include referrals to culturally specific resources as indicated. Ask if it is safe for them to take the written information and place in some kind of unmarked envelope. 🚑 Respect victim/survivor's refusal to do any portion of the exam. For more information on recommendations for the forensic exam, see the SANE Development and Operation Guide by Linda Ledray. See References for further information.

<sup>41</sup> 🚑 If victim/survivor is undecided about reporting, offer to do a complete exam and keep the evidentiary kit locked away to preserve the chain of custody, while allowing the victim/survivor time to decide. 📄 How long to keep the completed evidentiary kit and the mechanism for being alerted to the victim/survivor's decision should be negotiated through discussions with the SAIC or at minimum with advocacy and law enforcement agencies. Storing the completed evidence kit in a locked refrigerated area for four months is a common policy. 👤 If victim/survivor knows he/she will **not** report and refuses the evidentiary exam, offer prophylactic STD care and pregnancy evaluation. If this is refused strongly encourage him/her to go to a doctor or clinic for STD and pregnancy testing as appropriate. Make appropriate referrals for follow-up supportive counseling. Also discuss baseline testing for HIV and offer referrals to anonymous or confidential testing sites. 📄 Under MN Statute 611A.20 "Notice of Risk of Sexually Transmitted Diseases," hospitals are required to give a written notice to victims of sexual assault concerning information about sexually transmitted diseases, including locations for confidential testing. ☑️ MN

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Statute 72A.20, subdivision 29 attempts to protect crime victims and offenders who are tested for HIV from discrimination by insurers. If the hospital will be seeking 3<sup>rd</sup> party payment (insurance) for the exam, release of information forms should be reviewed to be in compliance with the referenced statute.

<sup>42</sup> ☹️ Check patient's vital signs; obtain past medical history, current medications & allergies, have patient undress completely and examine patient for injuries, document assessment on the medical record, if there are any physical injuries that need immediate attention or abnormal vital signs, report to responding physician.

<sup>43</sup> 🗑️ This could be teamed (with LE, advocate, nurse, physician, etc.) as appropriate given data privacy concern. Issues to consider: suspected ingestion of incapacitating chemicals, clothing, specifics of the crime lead to this assessment.

<sup>44</sup> ☹️ 🗑️ After receiving an explanation of the exam's purpose, a victim/survivor should be given the option of having the medical and evidentiary components of the exam. If a victim/survivor refuses a portion of the exam, this should be honored. Vulnerable adults who are their own guardian can give their consent. If they have a court appointed guardian or conservator, that person should be contacted to give consent if possible and if the victim/survivor does not object to that person being informed of the assault.

<sup>45</sup> ☹️ Follow medical protocol and procedures in evidentiary kit. These kits are available to MN hospitals free of charge from the Minnesota Bureau of Criminal Apprehension. Call the MN BCA at 651-642-0610 for more information.

<sup>46</sup> ☹️ 🗑️ If victim has not yet decided to report to law enforcement, secure the sealed evidentiary kit in a locked refrigerator for a period of time (i.e. 4 months) as agreed upon by the SAIC. Inform the victim/survivor when the kit will be destroyed if she chooses not to report.

<sup>47</sup> 🗑️ 🗑️ Follow pre-established procedures for this. Adjust the lighting to accommodate victims with dark complexions.

<sup>48</sup> 🗑️ ☹️ Conduct tests as indicated for sexually transmitted diseases, pregnancy, and presence of incapacitating drugs if suspected (i.e., rohypnol, GHB). Offer HIV baseline testing after gaining informed consent—or refer for anonymous testing. If the victim/survivor signs a release for her medical records from this hospital records to be shared with the police for the case investigation, she may lose privacy over some test results. In the case of HIV baseline testing, this may be reason enough to encourage the victim/survivor to be tested within the week at an anonymous testing site. ☒ MN Statute 72A.20 prohibits health insurance companies from asking about or using results of an HIV test of the offender or victim of a crime that was reported to police to make a decision to cancel or fail to renew the insurance plan.

<sup>49</sup> ☹️ Use appropriate forms documenting emotional and physical status.

<sup>50</sup> 🗑️ 🗑️ Arrange for follow-up care. 🗑️ Consider referrals for both medical (follow-up exams, referral to public health nurse if indicated to assist with medication or follow-up appointments) and non-medical care (24-hour access to support through sexual assault advocate, culturally specific services, mental health counselor if indicated, etc.). Make plans for photographing injuries (if indicated) in the next 1-2 days. ☹️ Avoid having the victim/survivor leave the hospital visit alone, without having some sort of supportive person engaged to assist with follow-up care. 🗑️ If a victim advocate has not been involved, ask victim/survivor's permission for someone to call them in a few days to see how they are doing per agency/interagency policy. If appropriate, consider additional referral to Public Health for confidential STD testing and/or follow up.

<sup>51</sup> ☹️ 🗑️ Information that is provided in multiple formats—orally, demonstration, and in writing is often helpful to a victim/survivor and/or their support person when they are under stress. Consider putting information about medications, discharge instructions, community resources, and contact for follow-up exams in writing to offer to the victim/survivor and/or their support person. Ask if it is safe for them to take the written

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information and place in some kind of unmarked envelope. ☒ Hospitals are required to give written information about sexually transmitted diseases including locations for confidential testing to victims of sexual assault (MN Statute 611A.20). The Minnesota Department of Health produces a brochure for hospitals to distribute to victims in order to comply with the statute. Call the Minnesota Department of Health at 612-676-5698 for copies of the brochure.

<sup>52</sup> 📖 Follow local pre-established agency and/or inter-agency procedures. Ideal is that every survivor's evidentiary exam is paid by third party—county, insurance (only if safe for Victim/survivor and with her/his permission), reparations, or some other fund. 🗣 One SAIC has removed any obligation for the victim/survivor to report the crime in order for the exam to be paid for, determining that an evidentiary exam (done with the BCA kit) is by its nature gathering evidence for possible prosecution. The county negotiated with the hospital for a flat reduced rate for the exams. This simplifies payment for the hospital who no longer needs to differentiate where bills should be sent and the timeliness of payment has increased. In turn, the hospital agreed to assume the costs of treatment provided (i.e. prescriptions, treatment of wounds) since it was determined that only diagnostic services and documentation were evidentiary. ☒ MN Statute 609.35 indicates that victim/survivors should not be charged (directly or indirectly) for the costs of medical-evidentiary exams when the exam is conducted for the purpose of gathering evidence for possible prosecution. It further indicates that the reasonable costs of the examination shall be paid by the county in which the alleged offense was committed although noting that nothing in the statute is intended to limit the responsibilities of any insurer. See the complete statutory language for full reference. If insurance coverage will be pursued with the victim/survivor's permission, it is advised that hospitals review the release of information to insurers to adequately address MN Statute 72A.20, subdivision 29, a statute which attempts to protect crime victims and offenders who are tested for HIV from discrimination by insurers.

👉 Knowing who will receive the bill for an evidentiary exam and the information that will be included is often of great concern to a victim/survivor. A victim/survivor may live with others who it is unsafe or undesirable to tell about the assault at this time (i.e. the assailant, parents, children, spouse). If someone else might receive the mail or review insurance bills, this disrupts the victim/survivor's right to privacy around the incident and may in fact put her safety into question. Those responding should be sensitive to these concerns, and policies should be developed with latitude to address them.

<sup>53</sup> 🗣👉 🗣 24-hour access to support through sexual assault advocate, financial assistance—reparations, community resources as indicated by the situation. Include information that addresses culturally specific resources.

<sup>54</sup> 🗣 Purpose is to be able to share the information from the forensic exam with LE to benefit case. If victim has not reported and is unlikely (or undecided) this can be completed at another time. If the victim has reported, or is certain she will report, she could be given the option of signing the form at this time to avoid unnecessary delays at a later time. If the SAIC has developed a release for case tracking/monitoring purposes, explain that release here.

<sup>55</sup> 🗣👉 If investigator is called out, to do an “over the phone review.” 🗣 Ask—where are the victim/survivor and the suspect? Is the scene secure? Has the medical/evidentiary exam been conducted? Does it need to be? Determine information needed in order to minimize necessity of repetitious interviews for victim.

<sup>56</sup> 🗣 Factors to consider in making this decision include: assessment of the responding officer(s) progress, their experience level and their possible need for assistance; the mental and physical condition of the victim/survivor; the availability of witnesses; the availability of the suspect and his/her willingness to talk.

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<sup>57</sup> 🗣️👂 Need for interpreter (sign or language), accessibility issues, and culturally specific advocacy if available.

<sup>58</sup> 🗣️👂🗓️ Accommodate victim's needs during steps in investigation (i.e., interview, hearings, cultural specific holidays, line-ups) including preferred meeting times. As a victim/survivor moves through their healing process and attempts to normalize their life, it is helpful to have the assistance of a support person or advocate during the investigative process.

<sup>59</sup> This may include informing the victim of when they anticipate talking with suspect, and a decision about arrest—if it is assessed that this will not likely jeopardize the investigation.

<sup>60</sup> Assess in light of whether suspect has been or will be arrested, other safety or support systems, discuss pros and cons of pursuing a no-contact order. 🗣️👂 The nature of the information is always case specific. In some instances, the victim/survivor has significant information about the perpetrator and benefits from someone to review various safety and assistance options. In other situations, the victim/survivor has very little idea of what to expect and benefits from assistance in considering various scenarios and planning for them.

<sup>61</sup> 📁🗂️ Provide overview of the next stages of the process (i.e., consult with prosecutor, complete investigation, refer for consideration of charges). Give general timelines if possible, however be realistic. It is very important that the survivor be given a realistic picture of what will likely unfold. This is also where it is helpful to explain the nature of the different roles and responsibilities of those the victim/survivor will likely meet as the case progresses.

<sup>62</sup> 🗣️ While the power to arrest lies with law enforcement, it is often important to consider the prosecutor's position on this case in effecting a good result. If the prosecutor will not be ready to charge in 36 hours, the suspect will need to be released. 🗣️ In some situations it is essential and if nothing else has provided the victim/survivor with 36 hours of safety. But more often than not, a premature arrest can negatively effect the case and provides the victim/survivor with a false sense of security. The other factors to be considered include: the likelihood of suspect to flee, dangerousness to community and victim/survivor, the status of the case, identity of suspect, evidence collection.



It is important to explain the nature and outcome of this decision to victim/survivors and their support persons. Many believe an arrest is an indication that they were believed by law enforcement. If, after weighing all the factors, a decision is made not to arrest the suspect in favor of soliciting a voluntary statement it is important to explain to victim/survivors and their support persons that the lack of an arrest does not mean they were not believed. Victim/survivor's also need this information in order to effectively plan for their own safety. 🗣️ This is especially important in some immigrant communities who may see the lack of such a response as an indicator that the victim was not believed by the police and shift their support to the suspect as someone who was falsely accused.


<sup>63</sup> It can assist the victim/survivor in making decisions about their own safety if they know when law enforcement anticipate talking with suspect, and decision about arrest—if it is assessed that this will not likely jeopardize the investigation. 🗣️ In some areas, it may be important to consult with the prosecutor prior to interviewing the suspect. They may help identify questions to be addressed in the interview.


<sup>64</sup> 📄 Under MN Statute 611A.66 "Police Notification of Right to Reparations" all law enforcement agencies shall provide victims of crimes they are investigating with notice of their right to apply for reparations with the telephone number to call to request an application form.


<sup>65</sup> 🗣️ 🗣️ This is case specific—may involve consultation with evidence technician (BCA or other), medical specialists, crime lab tech, advocate (keep informed throughout the process), consider involving/consulting with prosecutors early in process.



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<sup>66</sup>   Gather all medical records and documentation of the sexual assault evidentiary exam. Send evidence for necessary testing as indicated. Some law enforcement agencies have evidence technicians who become involved in these steps (Winona County).



<sup>67</sup>  Victim/survivors should be informed of what they are being asked to sign and offered a copy of whatever they do sign. Advocates can also be helpful in explaining the purpose of the request. The most commonly used release form is for the medical records of the acute visit post-assault. The SAIC may also develop a release of information form to document the victim/survivor's permission for participating agencies to exchange specific case information for the purpose of tracking the case and the nature of referrals. While an explanation of the scope and purpose of such a release should be explained to the victim/survivor, it should never be pursued at the victim/survivor's expense.

<sup>68</sup>  Offer information about Orders For Protection (OFP, see MN Statute 518B.01) and Harassment Restraining Orders (HRO, see MN Statute 609.748), with complete information about process and referrals for assistance. Caution: If filing an OFP or HRO remember the victim/survivor's name and address might need to be withheld. If withholding her identifying information is not possible the victim/survivor needs to know.  These remedies should be considered on a case by case basis as they may not be the first or best elements of a safety plan in a given case.  May want to consider including emergency fund assistance (see MN statute 611A.675 which provides small grants to victim assistance programs or prosecutors for the purpose of providing emergency assistance to crime victims), and/or help with safe housing.

<sup>69</sup> Most law enforcement agencies distribute a wallet-sized card which contains a listing of crime victims' rights, the nearest crime victim assistance program or resource, and typically a spot for the report number. The card should be reviewed and updated periodically to ensure all reference information on the card is correct. Model notification cards and brochures are available from the Minnesota Center for Crime Victim Services: 1-888-622-8799 or 651-282-6256.  Under MN Statute 611A.02 "Notice of Victim Rights" police officers are required to notify victims of several rights including the right to apply for reparations, request the law enforcement agency to withhold public access to data revealing their identify, the nearest crime victim assistance program or resource, and the right (if the victim is charged) to be informed and participate in prosecution, including the right to request restitution. See the statutory language for a complete description of the requirements.

<sup>70</sup>   Depending upon the community, this may be done by the victim/survivor's primary physician or at a clinic, not the hospital. Furthermore if a Sexual Assault Nurse Examiner's (SANE) program first treated the victim/survivor, it is unlikely a follow-up exam will be indicated in all but a few cases. See the SANE Development and Operation Guide (Ledray, 1999) for more information. This is community specific and should be sorted out through the SAIC. If another medical agency is to become involved it is important to consider the referral mechanisms so this service does not fall through the cracks.

<sup>71</sup>   Conduct follow up testing as indicated for sexually transmitted diseases and HIV with informed consent per pre-established agency policy. Consider victim/survivor's privacy concerns and provider's experience on offering effective pre and post test HIV counseling. Referral to an anonymous or confidential testing site would be another option.  MN Statute 72A.20 prohibits health insurance companies from asking about or using results of an HIV test of the offender or victim of a crime that was reported to police to make a decision to cancel or fail to renew the insurance plan.

<sup>72</sup>   Depending upon the community, this may be done by the victim/survivor's primary physician or at a clinic, not the hospital. Furthermore if a Sexual Assault Nurse Examiner's (SANE) program first treated the victim/survivor, it is unlikely a follow-up

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exam will be indicated in all but a few cases. See the SANE Development and Operation Guide (Ledray, 1999) for more information. This is community specific and should be sorted out through the SAIC. If another medical agency is to become involved it is important to consider the referral mechanisms so this service does not fall through the cracks.

<sup>73</sup> 📄 MN Statute 611A.021 “Right to Request Withholding of the Victim’s Identity” provides that the victim may request that police withhold their identity from the general public. See section 13.82, subdivision 10 (d) for the complete language. MN Statute 611A.035, subdivision 1 provides that a prosecutor may elect not to disclose a victim’s or witness’ home or employment address, telephone number or date of birth if the prosecutor certifies to the trial court that the defendant or respondent has been charged with a crime, and the non-disclosure is needed to address the victim or witness’ safety concerns and that the withheld information is not relevant to the prosecution’s case. See the statutory language for a complete reference and indication of further responsibilities for the prosecutor.

<sup>74</sup> 🗑️ Consider getting a second opinion if inclined to decline. If prosecutor’s office is large enough, get a second prosecutorial opinion.

<sup>75</sup> 🗑️ 🗑️ If there is more than one advocacy agency that could potentially be involved, explain the differences and similarities in the roles and how the coordination will occur from this point on. 🗑️ Do not assume that communities of color and other special populations will want someone from an advocacy program that has special outreach to their culture. Give them the information so that they can make an informed choice.

<sup>76</sup> Including referrals for civil remedies for personal protection (e.g., OFP, HRO). See note 34 for additional information about these remedies.

<sup>77</sup> 🗑️ It can be especially helpful early on to explain the availability of these resources and the kind of record-keeping that will be required.

<sup>78</sup> 🗑️ Some victims from communities of color or other special populations may not want to have charges filed because of the concerns of losing support of the family and/or the community.



<sup>79</sup> 🗑️ 🗑️ Determine the need for interpretive services (sign or language). Some jurisdictions have developed lists of certified interpreters highlighting any areas of specific knowledge (i.e. courts, medical, social services). In some instances counties have worked out contract language and a payment range with interpreters. A good interpreter is invaluable. Likewise assessing for any potential conflicts of interest between the interpreter (or any team member) and the victim/survivor is essential ( see references list for MN Supreme Court Interpreter Advisory Committee. Best Practices Manual On Interpreters In the Minnesota State Court System for use of interpreters). Consider involving culturally specific advocacy, if available, even if a language interpreter is not needed. Also consider and assess for other accessibility issues. 🗑️ If culturally specific advocacy program exists, contact them.


<sup>80</sup> 🗑️ 🗑️ Care should be taken to review with the victim/survivor the plan for informing the university, church, or business (i.e. any institution which is also proceeding with a complaint process) about the decision to decline charges. Since it is likely a different standard of proof is necessary for non-criminal complaint proceedings, other institutions should be encouraged to review the case and make their decisions independently. In any event, considerations for the victim/survivor’s safety and the institutions obligations in this regard should also be reviewed.




<sup>81</sup> 🗑️ With the victim/survivor’s permission, follow up to determine how she or he is doing and if any other services or referrals are needed. With the victim/survivor’s permission, this contact can also help with case review and feedback for the SAIC on the nature of the response from the victim/survivor’s perspective. If the victim/survivor feels she has been mistreated or that her rights have been violated and wishes to have her complaint


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investigated, refer her to the Office of Crime Victims Ombudsman at 651-642-0550 or 800-247-0390. Address safety concerns.



<sup>82</sup>   If victim/survivor does not read English, consider how this information can best be delivered, translated into the victim's language? Or simply reviewed at the meeting with the victim/survivor which would include an interpreter.



<sup>83</sup>  MN Statute 611A.035, subdivision 1 provides that a prosecutor may elect not to disclose a victim's or witness' home or employment address, telephone number or date of birth if the prosecutor certifies to the trial court that the defendant or respondent has been charged with a crime, and the non-disclosure is needed to address the victim or witness' safety concerns and that the withheld information is not relevant to the prosecution's case. See the statutory language for a complete reference and indication of further responsibilities for the prosecutor.


<sup>84</sup>   Determine the need for interpretive services (sign or language). Some jurisdictions have developed lists of certified interpreters highlighting any areas of specific knowledge (i.e. courts, medical, social services). In some instances counties have worked out contract language and a payment range with interpreters. A good interpreter is invaluable to a case. Likewise assessing for any potential conflicts of interest between the interpreter (or any team member) and the victim/survivor is essential ( see references list for MN Supreme Court Interpreter Advisory Committee: Best Practices Manual On Interpreters in the Minnesota State Court System ( May 1999) for use of interpreters). Also consider involving culturally specific advocacy, if available, even if a language interpreter is not needed. Also consider and assess for other accessibility issues.  If culturally specific advocacy program exists, contact them.


<sup>85</sup>  Might still include a face-to-face meeting to explain charges and determine any concerns.


<sup>86</sup>  Seek the opinions of the victim/survivor, discuss strengths and weaknesses of the case, determine the victim/survivor willingness to proceed with prosecution and testify, inform on nature of process, rights, and opportunities for participation.

<sup>87</sup>  If there is a language barrier, involve a translator.  Include information on the presumption of innocence for the defendant, the State's burden of proof, and an overall outline or chart of the process. Also explain the reasons why the victim/survivor will be a witness and will be subpoenaed, role of plea negotiations, roles of various individuals involved in the legal system, bail & conditions of release, possible violations of those conditions and the consequences.

<sup>88</sup>  See MN Statutes 611A (specifically 611A.01 to 611A.06). MN Statute 611A.02 (2) requires that a supplemental notice of the rights of crime victims be distributed by the city or county attorney's office to each victim, within a reasonable time after the offender is charged or petitioned. MN Statute 611A.02 (3) requires juvenile court to distribute a notice of rights and services to each victim of juvenile crime who attends a juvenile court proceeding. The notice shall explain: the rights of victims in juvenile court, when a juvenile matter is public, and procedures to be followed in juvenile court proceedings. The Minnesota Center for Crime Victim Services (651-282-6256 or 888-622-8799) has brochures and other resources that are useful resources for explaining the basics of the crime victim's rights statutes to crime victims.  Provide an interpreter (sign or language) to explain these rights if needed.

<sup>89</sup>  Explain the services available such as: notification of hearings and release, accompaniment to court hearings, advocacy, assistance with media.

<sup>90</sup>  Discuss elements of witness tampering and to whom the victim should report such incidents.

<sup>91</sup>  MN Statute 629.73 provides that prior to the release of a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence from pretrial detention, the agency having custody of the offender must orally inform the victim of the

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conditions of release; time of release; time, date, and place of next scheduled court appearance and the victim's right to be present; and the location and phone number of the local sexual assault program. As soon as possible after release of the offender, the agency must send written notice of the above information to the victim. 🗨️ ↔ Discuss preferred arrangements for notifying victim/survivors in advance to determine where they should be contacted, if it is appropriate to leave a message, how to reach them if an interpreter is needed. MN Statute 629.735 requires the agency having custody of a person arrested for a crime of violence to make a reasonable and good faith effort to inform any local law enforcement agencies involved in the case about the conditions of release prior to effecting the release. See the statutory language for the complete text.

<sup>92</sup> 🗨️ Advise the victim on saving documentation of expenses, what expenses are covered and the likelihood of their receiving compensation (see also restitution flow-chart).

<sup>93</sup> 🗨️ Request to talk about the case may come to the victim/survivor from the media, defense counsel/ private investigators, friends, --also issues of witness tampering. Be mindful of ways that the survivor can get support needed from others, express concerns, etc. while minimizing any potential negative effects on the investigation or prosecution of the case.

<sup>94</sup> 🗨️ Explain to victim the possibility of hearing cancellation and work out a plan for notifying victim of cancel hearing. ☑️ MN Statute 629.725 "Notice of Bail Hearing" requires the court to make a reasonable and good faith effort to notify the victim of a crime of violence when the person arrested (or the juvenile detained) for that crime is scheduled for a bail hearing. If the victim is incapacitated or deceased, notice must be made to the victim's family. The notification must include the date and approximate time of the review, its location, the name and telephone number of a person that can be contacted for additional information, and a statement that the victim and the victim's family may attend.

<sup>95</sup> 🗨️ MN Statute 611A.033 provides that crime victims may request the prosecutor to demand that the trial begin within 60 days. The prosecutor shall make reasonable efforts to comply with this request. 🗨️ Giving voice to the victim/survivor's concerns and fear is an important avenue for truth-telling and can assist the system in considerations for protecting her and others vulnerable to the offender's harm.


<sup>96</sup> 🗨️ Address mechanism for making the no contact order enforceable (communication with dispatch/law enforcement) without seeking an HRO or OFP separately, if possible.



<sup>97</sup> ☑️ MN Statute 629.73 provides that prior to the release of a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence from pretrial detention, the agency having custody of the offender must orally inform the victim of the conditions of release; time of release; time, date, and place of next scheduled court appearance and the victim's right to be present; and the location and phone number of the local sexual assault program. As soon as possible after release of the offender, the agency must send written notice of the above information to the victim. 🗨️ ↔ 🗨️ Discuss preferred arrangements for notifying victim/survivors in advance to determine where they should be contacted, if it is appropriate to leave a message, how to reach them if an interpreter is needed.


🗨️ MN Statute 629.735 requires the agency having custody of a person arrested for a crime of violence to make a reasonable and good faith effort to inform any local law enforcement agencies involved in the case about the conditions of release prior to effecting the release. See the statutory language for the complete text.


<sup>98</sup> ☑️ Offer information about Orders For Protection (OFP, see MN Statute 518B.01) and Harassment Restraining Orders (HRO, see MN Statute 609.748), with complete information about process and referrals for assistance. Caution: If filing an OFP or HRO remember the victim/survivor's name and address might need to be withheld. If


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withholding her identifying information is not possible the victim/survivor needs to know.  These remedies should be considered on a case by case basis as they may not be the first or best elements of a safety plan in a given case. Periodically check on any changes in her situation to assess safety plan. This necessarily includes changes in the survivor's contact information for release notification. The plan can be changed to accommodate concerns about who has access to this information. For example, if an agency (i.e., an advocacy program with a 24-hour line) is willing to be the contact point for the survivor, that one agency could simply hold that information.



<sup>99</sup>  If there is a language barrier, involve a translator.  Include information on the presumption of innocence for the defendant, the State's burden of proof, and an overall outline of the process. Explain MN sentencing guidelines and how they relate to the charges and possible plea agreements.


<sup>100</sup>  Under MN Statute 611A.19 "Testing of Sex Offender for HIV" the prosecutor shall make a motion, upon the request or with the consent of the victim, and the court shall issue an ordering requiring a person convicted (or a juvenile adjudicated delinquent) for criminal sexual conduct to submit to testing for the HIV virus if the crime involved possible exposure through a known means of transmission of the virus (see the statute itself for exact language). Test results are available, on request, to the victim or his or her parent or guardian and must be provided by a health professional trained to provide HIV test related counseling. See also section 72A.20 which prohibits health insurance companies from using results of an HIV test of the offender or victim of a crime reported to the police as the basis for a decision to cancel or fail to renew an insurance policy.


<sup>101</sup>  Under MN Statute 611A.03 prosecuting attorneys, prior to the entry of the factual basis for a plea, shall make a reasonable and good faith effort to notify crime victims of: a) the contents of a plea agreement recommendation; including the amount of jail or prison time recommended, and b) their right to be present at sentencing and to object orally or in writing (at the victim's option) to the proposed plea agreement or sentence. If the victim is not present when the court considers the plea, the prosecutor must make the victim's objections, if any, known to the court. If there are multiple victims, the prosecutor is only required to notify three victims. See the statute itself for the complete language.

 Keeping the victim informed helps build trust in the system in communities of color and other special populations.

<sup>102</sup>  Describe the need for all aspects of the criminal proceedings, including motion hearings, evidentiary issues and interviews as they occur. Continually update the victim/survivor about the various proceedings and posture of the case, including the dates of the various hearings and any continuances (delays) and reasons for them.  This can be particularly important to a victim/survivor from diverse populations because there is a higher likelihood that they may lack an understanding of the court proceeding. It can also effect the trust level by the victim of the system.

<sup>103</sup>   A probation agent may become involved if they receive a court order for pre-trial supervision of the defendant.

<sup>104</sup>  MN Statute 629.715 "Release in Cases Involving Crimes Against Persons" directs the prosecutor or other appropriate person to present relevant information involving the victim or the victim's family's account of the alleged crime to the judge to be considered in determining the release of a person arrested or detained for committing a crime of violence. Subdivision. 2. Indicated that the judge may order the person to surrender to the local law enforcement agency all firearms, destructive devices, or dangerous weapons the person possesses as a condition of release. See the statute itself for complete language.

 MN Statute 629.73 "Notice of Release of Arrested or Detained Person" provides that prior to the release of a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence from pretrial detention, the agency having custody of the

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offender must orally inform the victim of the conditions of release time of release, time, date, and place of next scheduled court appearance and the victim's right to be present; and the location and phone number of the local sexual assault program. As soon as possible after release of the offender, the agency must send written notice of the above information to the victim. 🗨️ ➡️ 🗨️ Discuss preferred arrangements for notifying victim/survivors in advance to determine where they should be contacted, if it is appropriate to leave a message, how to reach them if an interpreter is needed. 🗨️ A probation agent may become involved if they receive a court order for pre-trial supervision of the defendant.

<sup>105</sup> 🗨️ Both restitution and reparations are options for the victim/survivor but are not required. 🗨️ Early in the process it is helpful to inform the victim/survivor of the resources, discuss eligibility, and review the information and records they will need to keep in order to file their claim(s). 🗨️ Review MN Statutes 611A.04, 611A.045, 611A.51-67. Contact the Reparations Program at MCCVS for current information on eligibility requirements and coverage as well as claim forms and brochures.

<sup>106</sup> 🗨️ This can be particularly important to a victim/survivor from communities of color because there is a higher likelihood that they may lack an understanding of the court proceeding.

<sup>107</sup> 🗨️ This scope of information shared varies by agency. Prosecution based victim advocacy services typically have this communication as an important part of their function. Non-prosecution based advocacy services need to weigh data privacy concerns and the victim/survivor's wishes. The advantages of multidisciplinary teaming can help all professionals involved better understand the implications for the victim/survivor and the case of sharing or withholding certain information. 🗨️ Note that MN Statute 595.02 indicates that sexual assault counselors may not be compelled to testify about any opinion or information received from or about the victim without the victim's consent. See the statute for exact language and exceptions.

<sup>108</sup> 🗨️ 🗨️ 🗨️ Pay attention to dates and ask the victim/survivor about any significant conflicts. In particular ask a victim/survivor from a community of color about any holiday or special occasion that would be in conflict with hearing dates. Seek to change hearing dates that involve the victim/survivor (i.e. omnibus, trial, sentencing) in order to accommodate significant conflicts with the victim/survivor's plans.

<sup>109</sup> 🗨️ 🗨️ Determine in advance if this includes information from prosecutor based advocates and/or notes from prosecutors' meetings with victim/survivor.

<sup>110</sup> 🗨️ This can be particularly important to a victim/survivor from diverse populations because of higher likelihood that they may lack an understanding of the court proceeding. It can also effect the trust level by the victim of the system.

<sup>111</sup> 🗨️ 🗨️ Under MN Statute 611A.03 prosecuting attorneys, prior to the entry of the factual basis for a plea, shall make a reasonable and good faith effort to notify crime victims of: a) the contents of a plea agreement recommendation; including the amount of jail or prison time recommended, and b) their right to be present at sentencing and to object orally or in writing (at the victim's option) to the proposed plea agreement or sentence. If the victim is not present when the court considers the plea, the prosecutor must make the victim's objections, if any, known to the court. If there are multiple victims, the prosecutor is only required to notify three victims. See the statute itself for the complete language.

<sup>112</sup> 🗨️ 🗨️ Under MN Statute 611A.03 prosecuting attorneys, prior to the entry of the factual basis for a plea, shall make a reasonable and good faith effort to notify crime victims of: a) the contents of a plea agreement recommendation; including the amount of jail or prison time recommended, and 🗨️ b) their right to be present at sentencing and to object orally or in writing (at the victim's option) to the proposed plea agreement or sentence. If the victim is not present when the court considers the plea, the prosecutor must make the

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victim's objections, if any, known to the court. If there are multiple victims, the prosecutor is only required to notify three victims. See the statute itself for the complete language.

<sup>113</sup> 📄 MN Statute 611A.031 "Victim Input Regarding Pre-Trial Diversion" directs prosecutors to make every reasonable effort to notify and seek input from the victim prior to referring the defendant to a pre-trial diversion program. 📁 Pre-Trial Diversion in criminal sexual conduct cases should be used rarely.

<sup>114</sup> 📄 Factors that may affect plea negotiations are: the victim/survivor willingness and/or ability to testify, the presence or lack of corroboration of the victim/survivor testimony, the defendant's criminal record, problems of proof, factors that could result in sentencing departure upwards or downwards, the preferred controls on a defendant (lengthy probation vs. incarceration), possibility of success for defendant in sex-offender treatment, the inclinations of the judge assigned to the case.

<sup>115</sup> 📄 Notification to include: limitation on jail time, furloughs, credit for time served, work release privileges, fines, lengths of any stayed sentences.

<sup>116</sup> 📄 Under MN Statute 611A.03 prosecuting attorneys, prior to the entry of the factual basis for a plea, shall make a reasonable and good faith effort to notify crime victims of: a) the contents of a plea agreement recommendation; including the amount of jail or prison time recommended, and 📄 b) their right to be present at sentencing and to object orally or in writing (at the victim's option) to the proposed plea agreement or sentence. If the victim is not present when the court considers the plea, the prosecutor must make the victim's objections, if any, known to the court. If there are multiple victims, the prosecutor is only required to notify three victims. See the statute itself for the complete language.

<sup>117</sup> 📄 This relates to the difference between having the defense attorney ask the defendant yes or no questions with regard to establishing the elements of the crime, and asking the defendant to explain in their own words what happened—or a cross by the prosecutor to get at some of these elements. While this is not always possible, it does relate to the truth-telling that so many survivors want and deserve with regard to the incident. Generally avoid Alford pleas if possible, as they do little for truth-telling.

<sup>118</sup> 📄 See MN Statute 243.166 on the Registration of Predatory Offenders, MN Statute 244.10, Subdivision 2a which addresses the notice of information regarding predatory offenders. See also MN Statute 244.052 Notice of Sex Offenders Release.

<sup>119</sup> 📄 Ensure that the case is being seen from all angles and that no information or evidence is missing from the decision. It is also helpful for others involved with the case (i.e. the advocate(s), investigator) as these persons can better respond to questions from the victim/survivor should they come up.

<sup>120</sup> 📄 MN Statute 629.73 "Notice of Release of Arrested or Detained Person" provides that prior to the release of a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence from pretrial detention, the agency having custody of the offender must orally inform the victim of the conditions of release; time of release; time, date, and place of next scheduled court appearance and the victim's right to be present; and the location and phone number of the local sexual assault program. As soon as possible after release of the offender, the agency must send written notice of the above information to the victim. 📄 ↔ Discuss preferred arrangements for notifying victim/survivors in advance to determine where they should be contacted, if it is appropriate to leave a message, how to reach them if an interpreter is needed. MN Statute 629.735 requires the agency having custody of a person arrested for a crime of violence to make a reasonable and good faith effort to inform any local law enforcement agencies involved in the case about the conditions of release prior to effecting the release. See the statutory language for the complete text.

<sup>121</sup> 📄 Reference MN Statute 243.166, Registration of Predatory Offenders. This section requires offenders charged with, or petitioned for, a felony violation of criminal sexual conduct. See the statute for further information.

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<sup>122</sup> 📄 With the victim/survivor's permission, follow up to determine how she or he is doing and if any other services or referrals are needed. With the victim/survivor's permission, this contact can also help with case review and feedback for the SAIC on the nature of the response from the victim/survivor's perspective. If the victim/survivor feels she has been mistreated or that her rights have been violated and wishes to have her complaint investigated, refer her to the Office of Crime Victims Ombudsman at 651-642-0550 or 800-247-0390. Address safety concerns.

<sup>123</sup> 🗣️👤 Including Omnibus hearings, tour courtroom, sequestration issues, where to wait, process of testifying, etc. Also discuss emergency arrangements. Show victim where sign interpreters will stand/sit if needed. Explain specific emergency exit procedures if the victim has a disability.

<sup>124</sup> 🏠 Under MN Statute 611A.034 the court is directed to provide a waiting area for victims during court proceedings which is separate from the area used by the defendant, her/his family, and defense witnesses, if such an area is available and its use is practical.

If a separate area is not available, the court must provide other safeguards, such as increased bailiff surveillance and victim escorts.

<sup>125</sup> 🗣️👤 The need for interpreters, appropriate childcare, help for support persons, special equipment, are examples of specialized needs which may arise.

<sup>126</sup> 📄 MN Statute 631.046 "Authorizing Presence of Support Person for Minor Prosecuting Witness" indicates that a prosecuting witness under 18 years of age may choose to have a supportive person, whether or not a witness, present during their testimony at an omnibus hearing or trial. See statute for more complete language. Subdivision 2 provides that a prosecuting witness in any criminal sexual conduct case may choose to be accompanied by a supportive person, whether or not a witness, at the omnibus or other pretrial hearing. If the supportive person is also a witness, the prosecution and the court shall follow the motion procedure described in the statute to determine whether or not the supportive persons presence will be permitted. See the statute itself for complete language.

👤📁 Whether or not the victim/survivor's support person is a witness or will be with them in court, it can be important to the victim/survivor's well-being to keep support persons informed of the process and expected results. Work in coordination with the victim/survivor to determine the nature and scope of information to provide their support persons. This may also give the support persons an outlet for questions or concerns, enabling them to better provide support to the victim/survivor.

🗣️📄 Consider what support and assistance means in different cultures and communities. There may be a person accompanying the victim/survivor who is also in communication with the defendant. This is not uncommon in familial systems of small communities. Also, some victim/survivors may have children accompanying them for support and/or because they have difficulty accessing child care. Assess the support person's interests, abilities, and suitability in determining the nature and scope of information to share with them.

<sup>127</sup> 🏠 Under MN Statute 611A.034 the court is directed to provide a waiting area for victims during court proceedings which is separate from the area used by the defendant, her/his family, and defense witnesses, if such an area is available and its use is practical.

If a separate area is not available, the court must provide other safeguards, such as increased bailiff surveillance and victim escorts.

<sup>128</sup> 🏠 Refer to MN Statute 611A.035 "Confidentiality of Victim's Address." Subdivision 2 provides that victims and witnesses do not have to state their home or employment address, phone number, or date of birth on the record in open court unless the judge finds that this information would be relevant as evidence in the case. See the statute for complete language.

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<sup>129</sup> ☒ MN Statute 631.046 “Authorizing Presence of Support Person for Minor Prosecuting Witness” indicates that a prosecuting witness under 18 years of age may choose to have a supportive person, whether or not a witness, present during their testimony at an omnibus hearing or trial. See statute for more complete language. Subdivision 2 provides that a prosecuting witness in any criminal sexual conduct case may choose to be accompanied by a supportive person, whether or not a witness, at the omnibus or other pretrial hearing. If the supportive person is also a witness, the prosecution and the court shall follow the motion procedure described in the statute to determine whether or not the supportive persons presence will be permitted. See the statute itself for complete language.

📁 🌀 Whether or not the victim/survivor’s support person is a witness or will be with them in court, it can be important to the victim/survivor’s well-being to keep support persons informed of the process and expected results. Work in coordination with the victim/survivor to determine the nature and scope of information to provide their support persons. This may also give the support persons an outlet for questions or concerns, enabling them to better provide support to the victim/survivor.

<sup>130</sup> 🌀 Be aware that some victim’s from diverse populations may be reluctant to complete paper work because they may not be able to read and/or write. Check for this information in a sensitive manner and volunteer to complete the necessary paperwork using victim’s words. 📄 Provide assistance to victims on witness fee applications and reimbursement forms. Provide an explanation of what compensation victims can receive for testifying.

<sup>131</sup> 📄 Under MN Statute 611A.039 “Right to Notice of Final Disposition” the prosecutor is required to provide each affected victim with oral or written notice of the final disposition of a case within 15 working days after a conviction, acquittal, or dismissal. If the prosecutor asks the victim in advance if he/she wants to be notified and the victim does not request it, the prosecutor is not required to notify the victim. See the statute for complete language. 🗨️ 🌀 Consider the mechanism for making this notification and the potential impact on the victim/survivor’s safety. Coordinating this notification with an advocate or another support professional involved with the victim/survivor.



<sup>132</sup> 📄 Under MN Statute 611A.039 “Right to Notice of Final Disposition” the prosecutor is required to provide each affected victim with oral or written notice of the final disposition of a case within 15 working days after a conviction, acquittal, or dismissal. If the prosecutor asks the victim in advance if he/she wants to be notified and the victim does not request it, the prosecutor is not required to notify the victim. See the statute for complete language. 🗨️ 🌀 Consider the mechanism for making this notification and the potential impact on the victim/survivor’s safety. Coordinating this notification with an advocate or another support professional involved with the victim/survivor.




<sup>133</sup> 🗨️ With the victim/survivor’s permission, follow up to determine how she or he is doing and if any other services or referrals are needed. With the victim/survivor’s permission, this contact can also help with case review and feedback for the SAIC on the nature of the response from the victim/survivor’s perspective. If the victim/survivor feels she has been mistreated or that her rights have been violated and wishes to have her complaint investigated, refer her to the Office of Crime Victims Ombudsman at 651-642-0550 or 800-247-0390. Address safety concerns.


<sup>134</sup> 📄 🗨️ 🌀 MN Statute 611A.037 provides that a pre-sentence investigation report provided to the sentencing court shall include a summary of the damages to the victim and the victim’s recommendation for a disposition, and any written objections to the proposed sentence. Furthermore the corrections officer completing the pre-sentence investigation must notify the victim of a) the conviction offense and any plea agreement; b) the victim’s right to request restitution; c) the time and place of sentencing and the



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victim's right to be present; and d) the victim's right to object to the proposed sentence or plea agreement.




  Providing the victim/survivor an opportunity to truly express the nature of the harm done to the court and the judge can be an important part of the justice-making process. Whether the PSI report provides such an opportunity entirely depends upon how the correction officer completing the report handles this information. Meeting with the victim/survivor, if they so desire, to listen to their viewpoint and/or review their written "Victim Impact Statement" is an important beginning. Allowing the victim/survivor to review the summary to ensure it accurately represents their perspective goes even further.

**135**   Discuss restitution (MN Statutes 611A.04, 609.10 & 609.125); HIV testing of the offender (MN Statute 611A.19 and section 72A.20);  no-contact orders, probation, treatment, incarceration, restorative justice programs (MN Statute 611A.775), and actual time the offender will serve.


**136**   Including accompanying them to interviews/meetings with corrections or court services worker.




**137**   MN Statute 611A.037 "Pre-Sentence Investigation/ Notice of Rights," MN Statute 611A.04 "Right to Request Restitution" & MN Statute 611A.045 "Procedure for Issuing Order of Restitution" & MN Statute 609.135, Subdivision 1a "Failure to Pay Restitution" & MN Statute 611A.046 "Right to Request Probation Review Hearing," MN Statute 611A.038 "Right to Submit Statement at Sentencing," MN Statute 611A.0385 "Sentencing; Implementation of Right to Notice of Offender Release," MN Statute 611A.06 "Right to Notice of Release," MN Statute 611A.039 "Right to Notice of Final Disposition" (particularly the portion relating to notification of the victim should the court consider modifying the sentence), MN Statute 611A.0395 "Right to Information Regarding Defendant's Appeal."

**138**  Beware that some victim's from diverse populations may be reluctant to complete paper work because they may not be able to read and/or write. Check for this information in a sensitive manner and volunteer to complete the necessary paperwork using victim's words.

**139**   Refer to MN Statute 611A.04 "Right to Restitution," and 609.10 and 609.125 Subdivision 2b, where the court may order that all the restitution should be paid prior to a fine being paid. See also MN Statute 611A.037 "Pre-Sentence Investigation/ Notice of Rights," MN Statute 611A.04 "Right to Request Restitution" & MN Statute 611A.045 "Procedure for Issuing Order of Restitution" & MN Statute 609.135, Subdivision 1a "Failure to Pay Restitution" & MN Statute 611A.046 "Right to Request Probation Review Hearing."  Providing restitution is an important way an offender can begin to address the harm done.

**140** This can be particularly important to a victim/survivor from communities of color because there is a higher likelihood that they may lack an understanding of the court proceeding.

**141**  This can be particularly important to a victim/survivor from communities of color because there is a higher likelihood that they may lack an understanding of the court proceeding. Having a culturally specific advocate involved can be very helpful to victim/survivor understanding the process.

**142**   Refer to MN Statute 611A.0395 "Right to Information Regarding Defendant's Appeal" directs the prosecuting attorney to notify victims, orally or in writing, of a pending appeal within 30 days of the filing of the respondent's brief. They must also make reasonable and good faith efforts to notify the victim of the final decision on the appeal within 15 working days of the decision.  The notices are not required if a victim has previously indicated a desire not to be notified. See the statute itself for the complete language.

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<sup>143</sup> 📄 Refer to MN Statute 611A.038 “Right to Submit Statement At Sentencing,” which indicates that a victim has the right to submit an impact statement at sentencing. The victim may choose whether to present his/her statement orally or in writing. If the victim requests, the prosecutor must orally present the statement to the court. See the statute for complete language. ⚠️ Beware that some victim’s from diverse populations may be reluctant to complete paper work because they may not be able to read and/or write. Check for this information in a sensitive manner and volunteer to complete the necessary paperwork using victim’s words.

<sup>144</sup> 📄 Refer to MN Statute 611A.03 “Notification of Plea Agreements” which allows that the victim has the right to be present at sentencing and to object orally or in writing to the proposed plea agreement or sentence. See the statute for complete language.

<sup>145</sup> 🗝️ 🗑️ The need for interpreters (sign or language), appropriate childcare, help for support persons, special equipment, are examples of specialized needs which may arise.

<sup>146</sup> 📄 Under 611A.038 “Right to Submit Statement At Sentencing,” a prosecutor is required to orally present a victim’s impact statement at sentencing if the victim requests it. Victim/survivors should have this option explained to them and provided assistance with writing the report if needed.

<sup>147</sup> 🗑️ Victim/survivor can opt not to request restitution. 📄 Refer to MN Statute 611A.04 “Right to Restitution” and MN Statute 609.10 and 609.125 Subdivision 2b (indicates that the court can order the defendant to pay all restitution before paying fines).

<sup>148</sup> 📄 Refer to MN Statute 611A.038 “Right to Submit Statement at Sentencing.” The statute provides that the prosecutor must orally present the victim’s impact statement to the court if the victim makes such a request.


<sup>149</sup> 📄 🗑️ Refer to MN Statute 243.166 “Registration of Predatory Offenders,” Subdivision 2. Also note MN Statute 244.10 regarding written notice to be sent to a victim and any witnesses of the crime by a predatory offender who is convicted of an offense with a presumptive sentence of commitment, but where the court has granted a dispositional departure and stay of imposition or execution of sentence. This written notice is only required to be sent to victims or witnesses have requested such notice.




<sup>150</sup> 📄 🗑️ MN Statute 611A.0385 “Sentencing; Implementation of Right to Notice of Offender Release,” directs the court to notify the victim at the time of the sentencing or disposition hearing of the offender notice of release provisions of section 611A.06. The state court administrator shall develop a form for courts to distribute describing how a victim should submit a request to the commissioner of corrections or other custodial authority to be informed of an offender’s release.






<sup>151</sup> 📄 Under MN Statute 611A.039 “Right to Notice of Final Disposition,” provides that the prosecutor will provide oral or written notice to the victim of the final disposition of a case 15 working days after a conviction, acquittal or dismissal. It also directs the court or its designee shall make a reasonable and good faith effort to notify the victim in a case where the court is considering modifying the sentence for a felony or a crime of violence. The notice must include the date and approximate time of the review, the location where the review will occur, the name and telephone number of a person to contact for additional information and a statement that the victim and their family may provide input to the court concerning the sentence modification.


📄 🗑️ Refer to MN Statute 244.10, Subdivision 2a “Notice of information regarding predatory offenders.” In any case where a predatory offender is convicted of an offense and the presumptive sentence is a commitment, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide written notification to the victim and any witness the terms and conditions of the offender’s probation. The same statute also directs the probation or court services officer to inform the chief law enforcement officer in the area where the offender resides or intends to reside. Together



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they may decide to release further information to agencies or groups the offender is likely to encounter. See the statute for complete information.  Receiving notice of the offender's consequences can help to vindicate the victim/survivor who sees that the community understands she suffered an injustice. This notice also documents the means for the offender's accountability.


<sup>152</sup>   See MN Statute 244.10, Subdivision 2a which provides that a victim of and any witnesses to the offense committed by a predatory offender be notified in writing if the court grants a dispositional departure and stays imposition or execution of sentence for an offense in which the presumptive sentence is a commitment.  It is the probation or court services officer assigned to supervise the offender who is directed to send this notice if the victim and/or witnesses have requested such a notice. The statute also requires notice be sent to the chief law enforcement officer in the area where the offender resides or intends to reside. Further notification in the community may result. See the statute for exact language.

<sup>153</sup>   MN Statute 611A.06 "Right to Notice of Release" requires corrections officials to make a good faith effort to notify the victim that the offender is to be released from a jail, prison, institution or juvenile correctional facility, including release on furlough or for work release. The victim shall also be notified if the offender's custody status is reduced. For the victim of a felony crime where the term of imprisonment was more than 18 months, the notification must occur 60 days before the offender's release and include information about the conditions of release and who will be supervising the offender's release. The statute also provides for notification to the victim if the offender escapes from imprisonment, including furlough or work release.  This notification is only required if the victim has sent in a written request for the notice. The victim's request is private information.  Where notification request should be sent is dependent upon whether the offender was sentenced to serve a local sentence (jail) or was remanded to the commissioner of corrections for imprisonment (prison or juvenile correctional facility). Forms describing how a victim should submit a request to be notified of the offender's release should be available from the local court administration  (reference 611A.0385).

 Under MN Statute 638.04 "Pardon Board/Right to Submit a Statement," victims have a right to submit an oral or written statement at a pardon board meeting when an offender requests a pardon or commutation of sentence. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. See the statute for complete language.

<sup>154</sup>   Explain how risk monitoring, sentencing guidelines, departures, probation, supervised release, notification of release, supervised release, community notification, and registration pieces work and relate to this particular case. In short, help the survivor to know what generally to expect and where they have rights/options to know about what is happening in the case.

<sup>155</sup>   Refer to MN Statutes 243.166, 243.167, & 244.052. Also note (according to MN Statute 244.052, Subdivision 6) that a victim who has requested notification shall be notified of an offender who seeks to contest a Level II or Level III risk level assignment by the end-of-confinement review committee. This notification is to come from the chair of the end-of-confinement review committee upon receiving the offender's request for administrative review. The notice shall state the time and place of the hearing. The notice shall also go to certain law enforcement agencies. See the statute for more complete language.

<sup>156</sup>  Explain registration statute: 244.052 as it relates to this offender. Explain POR if applicable. Review victim/survivor's right to notification and necessity to submit a written request for such notification.

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<sup>157</sup> ☒ Refer to MN Statute 611A.0395 which requires a prosecuting attorney to notify the victim of a pending appeal and notice of the final decision on the appeal. Refer to the statute for complete language.

<sup>158</sup> 📄 Refer to MN Statute 611A.06 “Right to Notice of Release.” 🗨️ The victim must submit a written request for such notice.

<sup>159</sup> 📄 Refer to MN Statute 611A.046 “Right to Request Probation Review Hearing,” which provides that a victim has the right to ask the offender’s probation officer to request a probation review hearing if the offender is not complying with a restitution order. ☒ Also review 609.135, Subdivision 1a. “Failure to Pay Restitution.” The offender’s probation officer or the prosecutor may ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked if the offender has failed to pay restitution.

🗨️ Often restitution is a very tangible part of justice-making for victim/survivors. Victimization has real costs (i.e. safety devices, follow up medical care, replacement for clothing taken at the hospital, counseling costs). But even when there are other sources for compensating some of the expenses resulting from the crime, many victim/survivors feel that it is important for offender’s to pay whatever they can (even if it is five dollars per month) as an important component of their understanding the consequences of their behavior. If a victim can receive compensation from reparations for costs incurred, they may still be interested in having the offender repay reparations (☒ reference MN Statutes 611A.04 Subd. 1A & generally 611A.51-67).

<sup>160</sup> 🗨️ Ask the victim/survivor if they would be willing to have someone call them in a few months to check in on how they are doing. If the SAIC has set up such a monitoring/evaluation mechanism, ask the victim/survivor for their consent to be contacted at this same time for participation in a victim experience survey that is designed to get feedback on the system’s response to sexual assault victim/survivors. The victim/survivor should be given the option to decline survey participation when they are contacted even if they previously gave permission to be contacted. If the victim/survivor feels she has been mistreated or that her rights have been violated and wishes to have her complaint investigated, refer her to the Office of Crime Victims Ombudsman at 651-642-0550 or 800-247-0390.




<sup>161</sup> 📁 🗨️ 🚫 Assessment of the appropriateness of even inviting the victim/survivor to participate in such a session should likely be teamed so as to avoid moving forward in cases where it would re-victimize the victim to do so. An offender’s treatment provider or another corrections professional may be involved in making such a decision. Consideration of this option would be very case-specific and victim/survivor’s should never be required or pushed into participating despite how much a treatment provider may believe it would help the offender. ☒ Possible reference to MN Statute 611A.775 (Restorative Justice Programs).





<sup>162</sup> If the SAIC maintains a role for revising protocol and training, a mechanism for providing such feedback to the SAIC and affected agencies should be established.


<sup>163</sup> 🗨️ With the victim/survivor’s permission, follow up to determine how she or he is doing and if any other services or referrals are needed. If she has a preference about who provides the follow up (i.e. culturally specific advocacy program vs. prosecution based advocacy) coordinate accordingly. With the victim/survivor’s permission, this contact can also help with case review and feedback for the SAIC on the nature of the response from the victim/survivor’s perspective. If the victim/survivor feels she has been mistreated or that her rights have been violated and wishes to have her complaint investigated, refer her to the Office of Crime Victims Ombudsman at 651-642-0550 or 800-247-0390. Address safety concerns.



<sup>164</sup> 🗨️ 📄 Refer to MN Statute 611A.06 “Right to Notice of Release.”

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<sup>165</sup>   Refer to MN Statutes 243.166, 243.167, & 244.052. See also MN Statute 244.05 Subdivision 5(b) which provide that the commissioner of corrections shall include the views of the victim and the victim's family in a community investigation report (if they choose to participate). See also Subdivision 5 (c) which provides for the victim to be notified in advance of the time and place of the offender's supervised release review hearing. The victim has a right to submit an oral or written statement which the commissioner must consider when making a decision about supervised release.  New team members may be introduced as agencies such as corrections and law enforcement may have different personnel handling community notification and supervised release issues than those who participated in earlier stages of the case. Corrections may also refer to either or both local and state professionals.

<sup>166</sup>   Refer to MN Statute 611A.06 "Right to Notice of Release" if the victim has requested such notification in writing.  Also refer to MN Statute 244.052, subdivision 4 for notification requirements to victims and witnesses of predatory offenders. This statute also addresses the notification required to law enforcement agencies.  This will likely involve a contact person at a state correctional institution, rather than local correction agency.

<sup>167</sup>  Reference MN Statute 243.166, Registration of Predatory Offenders, MN Statute 244.052, Notice of Sex Offender Release, and MN Statute 244.05, Supervised Release Term (if determined a repeat sex offender). See statutes for more detailed information.

<sup>168</sup>  Reference MN Statute 244.052, Subdivision 3 for further explanation about the composition and duties of the end-of-confinement review committee.  Also note (according to MN Statute 244.052, Subdivision 6) that a victim who has requested notification shall be notified of an offender who seeks to contest a Level II or Level III risk level assignment by the end-of-confinement review committee. This notification is to come from the chair of the end-of-confinement review committee upon receiving the offender's request for administrative review. The notice shall state the time and place of the hearing. The notice shall also go to certain law enforcement agencies. See the statute for more complete language.