

Sexual Assault National Demonstration Audit

*Examining Our Community's Criminal
Legal Responses to Sexual Assault*

WHATCOM COUNTY, WASHINGTON 2019

DRAFTED BY:

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IN PARTNERSHIP WITH:

*Bellingham-Whatcom County Commission
on Sexual and Domestic Violence*

& Praxis International



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INTRODUCTION

Like all communities across our nation, we know the majority of survivors in Whatcom County do not report incidents of sexual assault, and accountability for sexual offenders is rare. In 2015, members of the Bellingham-Whatcom County Commission Against Domestic Violence identified the need for more local data and decided to lead a community assessment of sexual assault responses by our local agencies. At the time, Whatcom County had not completed a formal assessment process regarding sexual assault, nor was any organization or agency specifically addressing systemic gaps in responses to sexual assault. With the support of partner agencies, the Commission pursued and was awarded grant funding to complete a Sexual Assault Audit.

Soon after the Audit Team formed and began the data collection process, the #MeToo movement—founded by Bronx activist Tarana Burke—was popularized across the nation following several high-profile reports of sexual violence by film producer Harvey Weinstein. During this pivotal moment in the movement against sexual violence, countless survivors were empowered to speak out about their experiences for the first time. The #MeToo movement drew attention to the widespread prevalence of sexual assault and sexual harassment, and acted as a call for support and justice for survivors.

At the end of the data collection process, another significant national moment drew the attention of our Audit Team. On September 27, 2018, Dr. Christine Blasey Ford testified before the Senate Judiciary Committee that then-Supreme Court nominee Brett Kavanaugh had sexually assaulted her at a party when they were both teenagers. Watching Dr. Ford’s testimony—an extremely public and heavily scrutinized testimony of a traumatic experience in her youth—was a powerful moment for many survivors who were inspired by Dr. Ford’s bravery and the hope of justice.

Dr. Ford’s testimony was reminiscent of Anita Hill’s 1991 testimony that her former supervisor and then-Supreme Court nominee, Clarence Thomas, had sexually harassed her during her time working as his assistant. Hill, a lawyer, professor, and Black woman, faced significant public scrutiny for her testimony, and ultimately, Clarence Thomas was confirmed to the Supreme Court. Twenty-seven years later, survivors held hope that this time would be different. However, on October 6, 2018, Brett Kavanaugh’s appointment to the Supreme Court was confirmed. Survivors and advocates across the nation interpreted this as a resounding message echoing what they already knew and experienced — speaking out about sexual violence carries little incentive. Even the most credible survivors of sexual violence may not be believed; and even when survivors are believed, consequences for offenders are minimal to non-existent.

Because of this reality, survivors rarely report their experiences of sexual assault. When they do, their experiences of reporting rarely meet their needs. Survivors not only *fear* that they won’t be believed—in many cases they *are not* believed. For survivors whose identities and experiences face social stigma—survivors of color; survivors experiencing homelessness, chemical dependency, or mental health issues; survivors who have criminal histories; or survivors who cannot fully remember their experiences due to the effects of trauma — the scrutiny and perceived lack of credibility intensifies. The Senate Judiciary

Committee heard a survivor's story and determined that it did not warrant a response. We have an opportunity in Whatcom County to listen to survivors and *take action*.

With this report, our Audit Team makes a commitment to survivors in our community: We see you, we hear you, we believe you, and we will do all we can to ensure that when you come to us, our systems treat you with the respect, dignity, compassion, and support that you deserve as we work together toward justice.

OUR AUDIT QUESTION

How is the Bellingham-Whatcom County criminal legal system organized to meet the justice needs of sexual assault survivors?

When we initially heard from survivors and advocates about needs of sexual assault survivors engaging with the criminal legal system, justice was a frequent concern. Survivors often make the choice to report their experiences of sexual assault to seek justice. Thus, it was important that our question focused on justice as defined by survivors themselves, rather than using systems' definitions of justice. As we learned, justice for survivors is not an end-goal, but a process. To experience justice, survivors may or may not need prosecution or incarceration of their offender. Rather, what often is most meaningful is that the case be conducted in a safe, respectful, timely, and compassionate manner with a focus on justice and accountability.

An Audit is not a generic examination of an issue, but rather an exploration of the complexities that exist within the lives of survivors and in their experience seeking justice within the community. There is no universal survivor or experience of sexual assault and there is no universal solution to barriers that survivors face. In order to improve our systems responses in a meaningful way, we must pay attention to the unique factors in the lives of people who are in different social and economic positions in society. Throughout the Audit process, team members continuously tried to account for unique social circumstances of cases discussed and reviewed. The data we are able to collect about experiences of survivors at the margins made it clear that in moving forward, we must take intentional action to implement responses that meet the needs of underserved communities.

Like the canaries in the coal mine analogy where birds alerted coal-miners to a toxic and dangerous atmosphere, domestic violence and sexual assault are the coal mine, and survivors of color, Native survivors, LGBT survivors, immigrant survivors, and survivors with disabilities are the canaries. When you fix the mine for the canary, you make the mine safer for everyone. When you make the system work for the most marginalized and at risk, you help the system work better for everyone.

- Lisalyn Jacobs, National Network for Domestic Violence

We cannot truly improve our community's response to sexual assault unless it meets the needs of those who are most targeted for sexual assault and who experience increased barriers when reporting. In Whatcom County, this especially means increasing visibility of and improving outcomes for Native survivors. Whatcom County is located on traditional Coast Salish territory and is home to two Native American Tribal nations—Lummi and Nooksack. Research demonstrates that Native women are targeted for sexual assault at higher rates than all other racial groups, and often experience significant barriers in accessing safety and justice. When we work to address the needs of those who are most marginalized, we improve conditions for our community at large; therefore, it was important that we center the voices, experiences, and needs of Native survivors in our audit process. However, as we

describe in our overarching themes, due to our own blind spots and lack of partnerships, we experienced challenges in centering Native voices in a way that was meaningful, appropriate, equitable, and effective. We recognize that our final audit question does not offer the emphasis on targeted and underserved communities that we had originally envisioned. However, we do offer insights and recommendations for further growth, reflection, and actions we can take to meaningfully center marginalized communities in the future.

AUDIT REPORT OVERVIEW

The Audit Report contains findings and recommendations discovered and developed by the Audit Team, based on over 120 data collection activities conducted between July 2017 and October 2018. Findings are compiled in three groups: themes, strengths, and gaps.

- **Themes:** Broad, underlying issues identified through the Audit which impact every point in systems responses to reports of sexual assault. Themes play a role in each gap.
- **Strengths:** Areas identified through the Audit in which systems are performing particularly well in meeting the justice needs of sexual assault survivors.
- **Gaps:** Areas in which systems are not fully meeting the justice needs of sexual assault survivors.

Under each gap section is an overview of the gap; an explanation of what was discovered by the Audit Team in the data; the audit trails that were identified in the gap; an explanation of how the gap is a problem for sexual assault survivors, offender accountability, and community safety; and recommendations for closing the gap for each agency.

There are numerous recommendations for each agency; realistically, given time and resources, agencies will not be able to implement all recommendations. Agencies are encouraged to review all applicable recommendations, and prioritize implementation based on need, impact, and resources available.

THEMES, STRENGTHS, AND GAPS

OVERARCHING THEMES

1. The ways our community institutions understand and respond to reports of sexual assault are influenced by widespread societal myths and misconceptions about sexual assault.
2. Implicit bias and historical oppression lead to inequitable outcomes in the ways our community institutions serve and partner with marginalized communities, particularly Native communities.

IDENTIFIED STRENGTHS

1. Bellingham and Whatcom County agencies pro-actively committed to the intensive Audit process to examine our limitations and improve our systems responses, in order to seek justice for sexual assault survivors, accountability for offenders, and increased community safety.
2. Bellingham and Whatcom County agencies have functioning commitments to and frameworks for multidisciplinary collaboration and response to sexual assault cases.
3. The expertise and effort of individual practitioners in sexual assault dynamics and trauma-informed care contributes to survivors' experiences of being believed, and increase survivors' sense of justice, dignity, and safety following a sexual assault.

IDENTIFIED GAPS

1. There are systemic delays in processing sexual assault cases.
2. Sexual assault survivors experience a lack of follow-up, communication, and engagement from responding systems.
3. The quality of institutional responses to reports of sexual assault is significantly influenced by perceptions of survivor credibility – often to the exclusion of investigating suspect behavior and credibility.
4. There is a lack of criminal accountability for reported sexual assault offenders in our community, which includes and may enable serial offenders.
5. Across systems, there is lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement.

THEME I:

The ways our community institutions understand and respond to reports of sexual assault are influenced by widespread societal myths and misconceptions about sexual assault.

"I would like to live in a society where I can talk openly about what happened to me and know that I'm not a bad person because of being raped."

—Survivor

OVERVIEW

Underlying societal myths and misconceptions about sexual assault lay a foundation for the ways our society responds to and believes or disbelieves survivors. Local systems and practitioners are not immune to these myths and stereotypes. These misconceptions about sexual assault are rooted in gender bias—an often-unconscious judgment against a group based on their gender. When gender bias intersects with common misconceptions about sexual assault, it can have far-reaching and harmful impacts on the ways that survivors have access to safety and justice, and on how we as a community respond.

Several prominent societal myths about sexual assault are listed and corrected below:

MYTHS

Survivors lie about sexual assault, making up allegations because they regret a sexual encounter or want revenge against a sexual partner

FACTS

Survivors have little to nothing to gain by making false reports of sexual assault. In fact, throughout this Audit many survivors shared that the process of reporting a sexual assault is as traumatic as the assault itself, due to the ways that their credibility is assessed. Our society tends to focus on the integrity of the survivor rather than the reported offender, despite the fact that sexual offenders rarely admit to their sexual violence. We did not see a single case in the Audit in which an offender admitted to their sexual violence, but we did see several convictions.

The estimated rates of false reporting for sexual assault are similar to rates of false reporting for other felonies; however, reports of other crimes are not scrutinized in the way that sexual assault

reports are. A great deal of the research that has been conducted on the prevalence of false allegations of sexual assaults is unreliable. There are significant inconsistencies regarding definitions and methods used to evaluate data. Reviews of current research have found that the prevalence of false reporting is between 2 percent and 10 percent. The following studies support these findings:

- A multi-site study of eight U.S. communities including 2,059 cases of sexual assault found a 7.1 percent rate of false reports.
- A study of 136 sexual assault cases in Boston from 1998-2007 found a 5.9 percent rate of false reports.
- Using qualitative and quantitative analysis, researchers studied 812 reports of sexual assault from 2000-2003 and found a 2.1 percent rate of false reports.

Much of the research that exists on false reports of sexual assault do not clearly define what a false allegation means, and often include data that falls outside of most accepted definitions. The International Association of Chiefs of Police (IACP) states that, “the determination that a report of sexual assault is false can be made only if the evidence establishes that no crime was committed or attempted.”¹ The FBI and IACP have issued guidelines that exclude certain factors, by themselves, from constituting a false report. These include:

- Insufficient evidence to proceed to prosecution
- Delayed reporting
- Victims deciding not to cooperate with investigators
- Inconsistencies in victim statement

Some police departments may follow these guidelines, but it is not required to do so, and as a result, many do not. Gaps in law enforcement training may also inadvertently encourage identifying any of the following factors as indicators of a false report: delayed reporting, victim indifference to injuries, vagueness, or victim’s attempt to steer away from unsafe details, suspect description, or location of offense. As a result, many reports are classified as “false” that may not actually be untrue.²

¹ IACP National Law Enforcement Policy Center (2005): 12-13.

² National Sexual Violence Resource Center. [False Reporting: Overview](#) (2012).

The survivor is hysterical, crying, and distraught following the sexual assault

Individuals respond to trauma in a variety of ways. Some typical responses include crying, laughing, or feeling “numb” and expressing little emotion. The body’s physiological response to trauma is not indicative of how serious or traumatic the assault was.³

Survivors provoke sexual assault with their behavior (such as drinking with the offender or meeting someone through an online dating site) or by wearing revealing clothing

The survivor’s behavior or clothing choices do not mean that they are consenting to sexual activity. According to Washington State Legislature RCW 9A.44.010, “‘Consent’ means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.”⁴ A 2013 art installation at a Kansas University sought to dispel this myth by displaying the clothing that 18 survivors were wearing at the time of their sexual assault. Clothing ranged from tee shirts and jeans, to sweatpants, to a child’s sundress, and depicted a powerful message that individuals can experience sexual assault regardless of virtually any clothing choice.⁵

If a survivor’s account of the incident is inconsistent, they are probably lying

Research demonstrates that the trauma of sexual assault physiologically impacts brain chemistry and the survivor’s ability to remember details and sequence of the assault. The impacts on memory are typically most significant in the hours and days immediately following the assault—often when reports are made. A 1996 study showed that rape had substantial direct effects on the clarity and affect of memory and was associated with memories described as more emotionally intense but less clear and coherent and less often thought of or talked about.⁶

The survivor immediately reports to law enforcement

Studies indicate that between 65 and 74 percent of sexual assaults are not reported to law enforcement. The rate of reporting for sexual assault survivors who are women is lower than for men.⁷ Survivors often experience feelings of shame, guilt, and self-blame following a sexual assault and may be reluctant to disclose due to fear of being disbelieved, safety concerns, or the belief that nothing will be done.

³ Fanflik, P., *Victim Responses to Sexual Assault: Counterintuitive or Simply Adaptive?* (2007).

⁴ Washington State Legislature, RCWs > Title 9A > Chapter 9A.44 > [Section 9A.44.010](#), (2018).

⁵ Vagianos, A., “Art Exhibit Powerfully Answers the Question ‘What Were You Wearing’?,” [HuffPost](#) (2017).

⁶ Koss, M. P., Figueredo, A. J., Bell, I., Tharan, M., & Tromp, S., “Traumatic memory characteristics: A cross-validated mediational model of response to rape among employed women.” *Journal of Abnormal Psychology*, 105, no.3 (1996): 421-432.

⁷ Rennison, C. M., “Rape and sexual assault: Reporting to police and medical attention 1992-2000 [NCJ 194530].” [U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics](#) (2002).

The survivor screams and fights to try to get away

A survivor may scream or try to get away during an assault, but it is much more common for survivors to experience tonic immobility or a “freeze response” as a result of the trauma. One study indicated that 70 percent of survivors interviewed experienced “significant tonic immobility” during the assault, preventing them from moving or speaking.⁸

Sexual assault most often occurs between strangers

Seven out of ten sexual assaults are committed by someone who is known to the survivor. 19.5 percent are committed by a stranger. 39 percent are committed by an acquaintance. 33 percent are committed by a current or former spouse, girlfriend, or boyfriend. 6 percent are committed by more than one person who the survivor cannot remember. 2.5 percent are committed by a non-spouse relative.⁹

The offender uses a weapon and/or causes serious injury

Only 5 percent of sexual assault survivors sustained a major injury as a result of the assault, such as gunshot wounds or broken bones. 62 percent of female sexual assault victims were not physically injured as a result of the assault. Of the 38 percent of victims who sustained an injury, 33 percent were minor injuries, such as scratches or bruising.¹⁰ Weapons were used in the assault against the survivor in only 11 percent of cases. 6 percent involved a gun, 4 percent involved a knife, and 1 percent involved another weapon.¹¹

The sexual assault takes place outdoors or in a “dangerous” location like a dark alley

53 percent of sexual assaults occur at the survivor’s home or within a mile of the survivor’s home. About 20 percent of sexual assaults occur in the home of a friend, neighbor, or relative. 10 percent of sexual assaults occur outdoors, away from the survivor’s home.¹²

⁸ Moller A, Sondergaard HP, Helstrom L., “Tonic immobility during sexual assault – a common reaction predicting post-traumatic stress disorder and severe depression.” [Acta Obstet Gynecol Scand](#), 96 (2017): 932–938.

⁹ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *National Crime Victimization Survey, 2010-2016* (2017).

¹⁰ Rennison, C. M., “Rape and sexual assault: Reporting to police and medical attention, 1992-2000 [NCJ 194530].” [U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics](#) (2002).

¹¹ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Female Victims of Sexual Violence, 1994-2010* (2013).

¹² Planty, M., Langton, L., Krebs, C., Berzofsky, M., & Smiley-McDonald, H., “Female Victims of Sexual Violence, 1994-2010.” *Bureau of Justice Statistics* (2013).

Despite what is true about sexual assault, survivors, community members, and service providers are all influenced by these and other societal myths and misconceptions—myths that can perpetuate trauma when applied to a sexual assault survivor’s lived experience. Survivors shared repeatedly in interviews and focus groups throughout our audit process that these myths and misconceptions play a significant role in their decisions not to report. When survivors do report, the prevalence of these misconceptions in our systems responses can further continue and increase trauma.

“ . . . I feel like it’s just my fault for being there and being alive and being available. I don’t know what to do. I’m kind of lost with that feeling. Talking about it helps me so much because it was buried so deep that it’s taken this long for things to start coming up again. I feel abandoned by the system, totally abandoned.”

—Survivor

WHAT WE SAW AND HEARD

- In interviews and focus groups, survivors shared the following:
 - *“I was asked what I was wearing, if I was a virgin, how many partners I had. At one point in the interview, a policeman told me he knew that I was lying.”*
 - *“A nurse asked me why I just didn’t switch seats.”* (This survivor was assaulted on a bus.)
 - *“But that’s what my experience was, like this numbing and this fog and you don’t want to tell anyone. And two cops here, I went to the cops and they say, ‘Oh we talked to him and he seems like a really nice guy,’ and this guy carries a concealed weapon and you’re like, ‘this is a nice guy?’ So you shut up again.”*
 - *“I wanted acknowledgment that it happened. It felt unfair when the officer asked if I thought he would do it again. He already did it once! I was like—that should tell you something.”*
- We were contacted by one survivor who was deciding whether or not to participate in a survivor interview. The survivor had concerns about confidentiality and anonymity, stating that she is a professional in the community. She said that she didn’t want other professionals knowing about what happened to her, because of the ways our society and community talks about other sexual

assault cases and survivors. Ultimately, this survivor decided not to complete the interview. Other survivors who did participate in interviews also disclosed similar concerns regarding confidentiality due to their professional capacity in the community and asked for assurances of complete anonymity.

- A survivor who participated in an individual interview stated that she specifically asked the detective not to discuss her case—or put her case on the list distributed—at the local special assault response team meeting. She stated that she knew that victims and cases were talked about negatively at times in those meetings and didn’t want her case to be talked or joked about in that way.
- Practitioners frequently use the language of consensual sex, rather than sexual assault, when discussing and documenting sexual assault. For example, using the term “sex” when referring to a rape.
- Sometimes practitioners use derogatory and victim-blaming language or make negative portrayals or jokes about survivors’ sexual history, partners, and use of dating applications. Practitioners report that lack of policies and procedures to adequately address vicarious trauma can lead to burn-out, compassion fatigue, and processing trauma in ways that are harmful to survivors and can expose others to vicarious trauma.
- In interviews, stakeholders shared that if the survivor can’t tell everything complete, consistent, and in a linear fashion the first time they share about their assault, their whole report is discounted. This perception was also noted in reviews of both law enforcement and prosecution case files.
- In stakeholder interviews and court observations, Team members noted that juries don’t believe survivors if there are any inconsistencies in their story or if survivors don’t act according to the jurors’ expectations and assumptions. For example, when interviewing jurors after sexual assault trials, jurors have indicated that they chose not to convict because:
 - The survivor told a small lie about her relationship with her boyfriend, though it was unrelated to the sexual assault.
 - The survivor agreed to drink with the suspect.
 - The survivor knew the suspect before the assault.
 - The survivor had agreed to some consensual sexual contact with the suspect before the sexual assault occurred.
 - The survivor had engaged in sexual activity even though she wasn’t married.

Institutional and cultural expectations of survivors of sexual assault are contrary to what we know about the body's physiological responses to trauma and memory recording and processing. Our societal misunderstanding and gender biases regarding sexual assault, and how we view survivors, makes sexual assault one of the most under-reported and under-prosecuted crimes, especially for a crime that has such a traumatic and long-lasting impact on the survivor.

“...we know from decades of social scientific research and the FBI's Uniform Crime Report (UCR) that reporting rates for sexual assault are among the lowest for all violent crimes. At the same time, attrition rates for sexual assault are high. In fact, the pattern for attrition for sexual assault cases within the criminal system is often described as a ‘justice gap’, with research indicating that only 5 – 20% of sexual assault cases are reported, 0.4 – 5.4% are prosecuted, and 0.2 – 5.2% result in a conviction of any kind.”¹³

Locally, the attrition pattern, or “justice gap” is apparent in our data about reports and prosecutions:

- In 2017, there were 118 rape reports throughout Whatcom County's law enforcement agencies. Of those reports, only 17 cases (14%) resulted in arrest (see Figure 1).¹⁴
- In 2017, Whatcom County Superior Court reported a total of 17 sexual assault cases involving an adult or adolescent. Those included 6 cases of indecent liberties, 1 case of 3rd degree rape, and 10 cases of 2nd degree rape. Of those cases, 2 were resolved by a guilty plea, 2 were dismissed without a trial, and the remaining 13 had no resolution listed in 2017 (see Figure 2).¹⁵
- In 2017, there were 3 petitions filed for temporary Sexual Assault Protection Orders (SAPOs) in Whatcom County Superior Court. Of those petitions, 1 (33%) resulted in the granting of a permanent order (SAPOs are generally granted for the duration of one year and it is the survivor's responsibility to petition for a renewal, if they wish to extend the protection).
- In 2017, there were 13 petitions filed for temporary Sexual Assault Protection Orders (SAPOs) in Whatcom County Superior Court. Of those petitions, 3 (23%) resulted in the granting of a permanent order.
- In 2017, Domestic Violence Sexual Assault Services (DVSAS) provided advocacy services to 419 survivors of sexual assault, Lummi Victims of Crime (LVOC) provided advocacy services to 36 survivors, and Consultation and Sexual Assault Support Services (CASAS) at Western Washington University provided services to 107 survivors.

¹³ Huhtanen, H., *End Violence Against Women International, Training Bulletin Series: Gender Bias in Sexual Assault Response and Investigation* (November 2017).

¹⁴ 2017 Crime in Washington Annual Report, Washington Association of Sheriffs and Police Chiefs, 2017.

¹⁵ Whatcom County Superior Court, Superior Court Sexual Assault Report, 2017.

- In 2017, St. Joseph’s Medical Center provided forensic exams to a total of 80 survivors of sexual assault. 70 of those survivors (88%) reported the assault to law enforcement.

FIGURE 1

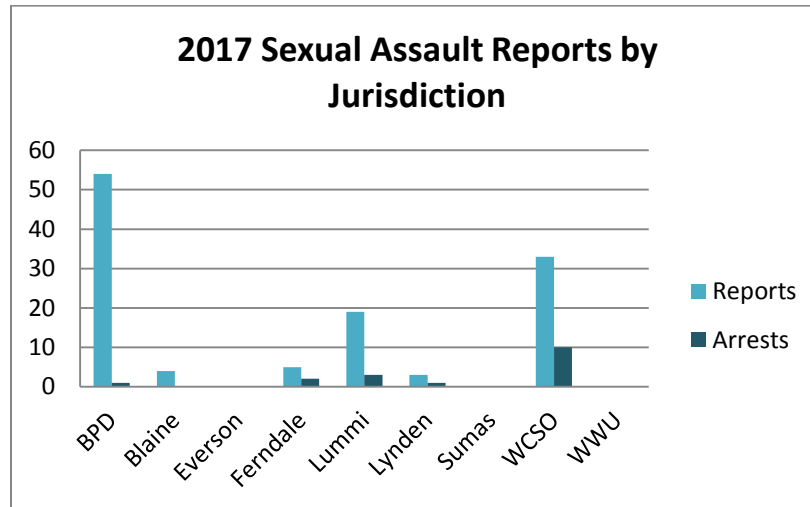
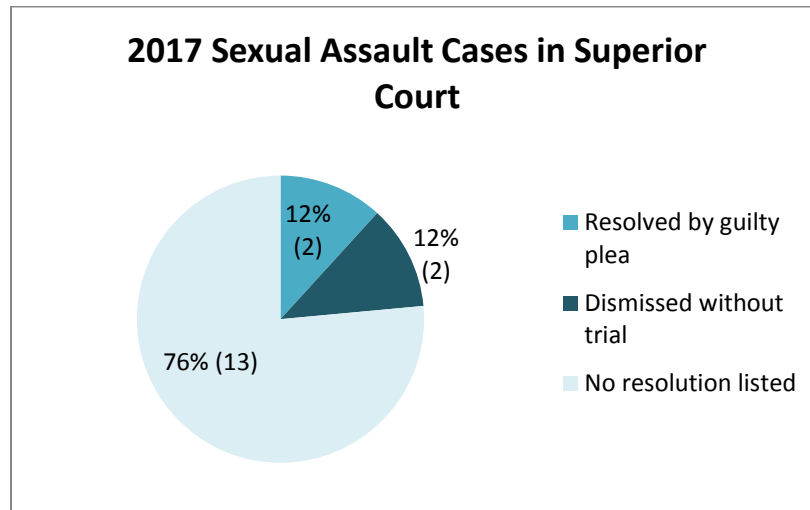


FIGURE 2



If we want survivors to experience justice, offenders to be accountable for sexual assault, and a safe community for everyone, we must recognize and institute systemic responses that overcome gender biases and societal myths. Under other gaps, we address this theme by offering applicable recommendations for reducing gender bias, developing increased understanding of the realities of sexual assault, and increasing our systems’ ability and capacity to meet the justice needs of survivors.

THEME II:

Implicit bias and historical oppression lead to inequitable outcomes in the ways our community institutions serve and partner with marginalized communities, particularly Native communities.

"I was raped in college and I know so many other girls who have been raped. No one I know has reported it. We support each other because we know that police aren't going to support us."

—Survivor

OVERVIEW

The complex identities of survivors, including gender, race, ability, sexual orientation, immigration status, and socio-economic status, can play a role in the ways that survivors have access to and opportunities for safety and justice. Implicit bias — the unconscious attribution of particular qualities to a member of a certain social group — can lead us to make assumptions about individuals based on what we believe to be true about their gender, race, or another identity. Implicit bias can impact both individuals and systems as a whole, sometimes influencing policies, procedures, or unwritten workplace practices that do not fully meet the needs of all communities.

It was important for the Audit Team to examine the additional barriers to safety and justice that exist for survivors who are part of historically marginalized and underserved communities. Significantly, Indigenous women are targeted for sexual violence at extremely high rates, particularly sexual violence that occurs from outside the Tribal community against Native Women. According to Amnesty International's findings in a 2007 publication, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*;

"Sexual violence against Indigenous women in the USA is widespread. According to US government statistics, Native American and Alaska Native women are more than 2.5 times more likely to be raped or sexually assaulted than other women in the USA. Some Indigenous women interviewed by Amnesty International said they didn't know anyone in their community who had not experienced sexual violence. Though sexual assault is always an act of violence, there is evidence that Indigenous women are more likely than other women to suffer additional violence at the hands of their attackers. According to the US Department of Justice, in at least 86 per cent

of the reported cases of rape or sexual assault against American Indian and Alaska Native women, survivors report that the perpetrators are non-Native men.”¹⁶

Additionally, the Seattle Indian Health Board’s Urban Indian Health Institute division recently published a report on the widespread crisis of Missing and Murdered Indigenous Women and Girls—cases in which documentation was frequently found to be missing from law enforcement databases and often remain unsolved. Notably and alarmingly, Seattle, Washington, only ninety miles south of Whatcom County, was found to have the highest number of missing and murdered Indigenous women and girls in the nation.¹⁷

Whatcom County is the traditional home of Coast Salish peoples, including local Lummi and Nooksack Tribal Nations. Bellingham and Whatcom County systems’ proximity to local Tribal communities means that Native people often seek justice from municipal and county systems. The prevalence of sexual violence against Indigenous communities is something that our audit could not ignore. Thus, we intended to highlight the unique experiences of Native survivors in our audit question, which originally stated: “How is the Bellingham and Whatcom County criminal legal system organized to meet the justice needs of sexual assault survivors, particularly Native survivors?” This question was intended to reflect the unique safety and justice concerns of Native women who experience sexual violence.

As we worked toward partnerships with Northwest Indian College, Lummi Victims of Crime (LVOC), and the Nooksack Tribe, we heard directly from stakeholders in local Native communities about the unique concerns facing Indigenous survivors and challenges they experience in working with non-Tribal systems. We were able to see and hear evidence that supports the invisibility of Native survivors in our local systems, and biases and beliefs in cultural stereotypes that often underlie the disparate outcomes Native survivors face.

However, as we sought to conduct interviews and focus groups with Native survivors, we realized that we ourselves had not forged the partnerships and trust that would be essential to gathering survivor input. Barriers to getting survivor input and fully centering our audit on Native survivors included:

- We did not reach out to agencies like LVOC or Northwest Indian College in the initial stages of planning the audit, and thus potential team members from those institutions were not a part of orientation, training, or setting our on-going meeting schedule.
- We did not designate funds in our grant budget in a way that allowed us to fund LVOC or another Tribal agency to conduct the survivor interviews and focus groups for our team.

¹⁶ Amnesty International USA. [*Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*](#), (New York, 2007).

¹⁷ Urban Indian Health Institute. [Missing and Murdered Indigenous Women and Girls Report](#). Seattle Indian Health Board. (Seattle, 2018).

- Historically, non-Native researchers have exploited Native research subjects and misrepresented findings, leading to reinforcement of negative stereotypes of Indigenous peoples and negative outcomes for Tribes. Because of this history, Tribes have an in-depth Institutional Review Board (IRB) process that must be followed and approved by the Tribe in order to conduct any human subject research. Because we had not engaged the Tribes in the beginning stages of planning the audit, we had not anticipated or planned for the need to participate in this IRB process, and could not complete it within our project timeline.

Without Native survivor voices, we could no longer move forward with using the language “particularly Native survivors” in our audit question. Based on what we learned, we knew that we could not maintain Native survivors as a focus in a meaningful, just, and appropriate way.

However, before we shifted our focus, several Audit Team members received training on federal Indian law and jurisdiction in Indian country, and a number of data collection activities – including observations, case reviews, and stakeholder interviews – were conducted and led to important findings. Based on this data collection, the Audit Team heard and saw that unfortunately, our local community and local practitioners are not immune to implicit biases about Native people. Additionally, we realized how much we could not see or hear – because Native survivors were often invisible to our systems.

WHAT WE SAW AND HEARD

- Nationally, 86% of sexual assaults against Native women are committed by non-Native men; Native women are the only population that is most likely to experience sexual assault by people outside their racial or ethnic group.¹⁸
- Federally recognized tribes are sovereign nations, yet their authority to enforce laws against non-Native people who commit crimes against Native people on Tribal lands has been limited. While the 2013 re-authorization of the Violence Against Women Act (VAWA) extended some jurisdiction over non-Native offenders to Tribes in cases of domestic violence (if Tribes were able to implement a number of changes to their criminal legal systems), Tribal jurisdiction in sexual assault cases remains limited to Native offenders.
- In interviews, stakeholders told us that Native survivors often do not feel safe at St. Joseph’s Medical Center because of other negative experiences at the hospital.
- In interviews, advocates and nurses noted there is confusion at times about when the hospital should call an advocate from Lummi Victims of Crime (LVOC) to respond for a sexual assault exam instead of an advocate from DVSAS. Hospital protocol states that LVOC should be called for all Native survivors, it is not clear how hospital staff determines whether or not the survivor is Native. In many cases, advocates from only DVSAS are called; in other cases, advocates from

¹⁸ Amnesty International USA. *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*, (New York, 2007).

both agencies are called, which is awkward for survivors and responders, and a duplication of effort.

- Tribal law enforcement officers are not deputized in Whatcom County due to insurance and training requirements. According to a Whatcom County stakeholder, Tribes cannot be sued due to sovereignty, so the insurance is required to protect the County. However, the cost of the insurance and training required has been a barrier to Tribes.
- At times, when Lummi Law and Order detains a non-Native suspect (for crimes in general), Whatcom County Sheriff's Office or Washington State Patrol have a delayed response or decline to arrest.
- Tribal law enforcement officers do not have the inherent authority to pursue a fleeing suspect after the suspect leaves the reservation/Tribal land.¹⁹
- According to local law enforcement, there are local online message boards that "coach" offenders on how easy it is to rape Native women on reservations and get away with it by taking advantage of the limits on Tribal jurisdiction in sexual assault cases.
- Several Tribal law enforcement officers are cross-deputized with the FBI which allows them access to federal databases, including Tribal court history, that non-Tribal law enforcement does not have. However, stakeholders shared that Tribal law enforcement officers are rarely utilized as a resource for non-Tribal investigations.
- In interviews, stakeholders frequently used societal myths to describe Native people. Interview sentiments included:
 - Cultural differences and the "flat affect" of Native people could be challenging for a jury.
 - "Those people have a beautiful culture."
 - Native courts are "too focused on healing the community" and services for the offender, and "they often lose support for the survivor."
 - It is important for Native people to "get off the reservation", get an education, be "assimilated", and "talk like us."
 - Native people "see racism everywhere" even when it's not really there.

¹⁹ *State vs. Erikson*. 172 Wash. 2d 506, 259 P.3d 1079 (2011).

- In stakeholder interviews, we discovered that some local practitioners are uninformed about the laws requiring Full Faith & Credit for protection orders. One practitioner stated, “our courts don’t cover the Lummi community, they have their own courts.”
- It was nearly impossible to identify cases for review that involved Native survivors, or to collect data on Native survivors who have reported and/or sought services in our community agencies. Race-specific data is not consistently collected, and many practitioners could not recall working on any cases that involved Native survivors. For example, in a stakeholder interview, a prosecutor stated that they had charged cases with Native survivors but couldn’t cite any examples; they could only cite an example of a time they had prosecuted a Native woman.
- In a focus group, Native youth reported that they did not disclose sexual assault at school and/or were uncomfortable disclosing because prevention education and advocacy provided at the school are not provided by Native advocacy programs or individuals.
- In stakeholder interviews, multiple Native women stated that, “every Native woman I know has been sexually assaulted.” One of those stakeholders noted that despite this fact, she does not know any Native women who have had their case prosecuted, stating, “And I know that’s not because there aren’t any Native victims here.”
- In a stakeholder interview, a Native woman shared this example of the bias experienced by Native people: when she was in the hospital giving birth, a nurse approached her and her husband and said, “It’s so nice to see one of you with an intact relationship.”
- In a stakeholder interview, a Native professional stressed the importance of building trust and relationships and showing solidarity with Tribal efforts and projects. The stakeholder said that other community professionals are invited and encouraged to attend Tribal events, including the LVOC DV Task Force, conference, and awareness events. She also noted that Tribal representatives frequently travel to Whatcom County meetings and events but those practitioners rarely come to them.
- A stakeholder shared the significance of cultural understanding in working with survivors. For example, in some Native communities, blankets are very important and may be wrapped around a person to symbolize being wrapped in love by their community. If a sexual assault survivor has been wrapped in a blanket, a law enforcement officer may need to weigh cultural pros and cons of removing it if it could be used for evidence. A non-Tribal sexual assault investigator who is unfamiliar with the symbolism of blankets in Native cultures may respond or investigate differently than someone familiar with Native cultures.

We attempted to document the unique justice needs of other survivors of color but encountered similar barriers to arranging focus groups and interviews – we didn’t have the necessary trust or relationships with culturally-specific community organizations to be able to reach and hear from a significant number of survivors of color. We heard from seven survivors of color and two had reported to law enforcement

or other providers. Several survivors of color who did participate in Audit interviews shared the following:

- *“I called my boyfriend right after it happened and I was crying on the phone... He just kept telling me, ‘you need to call the police now, I’m not going to talk with you until you call the police.’ I was just horrified, talking to the police was the furthest thing from my mind. He was a white guy and I am Latina and I feel like he just didn’t understand what a humiliating and terrifying experience that would be for me. I never did report it.”*
- *“I honestly just felt so embarrassed. Embarrassed that I had gone to his apartment, embarrassed that I had smoked weed with him—this was back when it was illegal—embarrassed that I didn’t fight him off harder. I just felt like if I reported they would roll their eyes at me or something.”*
- *“About a year after it happened I found out online that he was actually a sex offender. I felt sick to my stomach. On one hand, it was really validating to know that I wasn’t crazy and that he actually was a bad guy. I thought about reporting it then, but so much time had passed, and plus I was the one who went out on a Tinder date with a sex offender, I still felt like on some level it was my fault.”*

Other concerns that the Audit Team noted about survivors from particularly targeted and marginalized communities included:

- One survivor indicated a fear of reporting her sexual assault to law enforcement because she could be deported. In interviews that took place after a September 2018 ICE raid outside of Bellingham, community stakeholders shared that undocumented survivors feel even less trusting of and more unlikely to report to law enforcement due to a community perception (stemming from multiple social media posts) that the Whatcom County Sheriff’s Office had participated in the ICE raid. Although the WCSO released an official statement that deputies “did not in any manner participate in this federal operation,” for many, the community perception remains unchanged.
- Though some stakeholders are aware that the Blaine and Lynden Police Departments now use What-Comm for 911 dispatch – instead of Border Patrol, which had previously provided that service for those municipalities – local immigrant communities are generally unaware of this change.
- It is unclear under what circumstances law enforcement and prosecutors will sign applications for U-visas. According to interviews, some practitioners believe that County prosecutors and law enforcement will not sign U-Visas, while practitioners within those systems stated that they have signed U-Visa applications for survivors.

- Survivors who are Deaf regularly do not receive the interpreter services that they need. Since the local Deaf community is fairly small, there are additional concerns that the survivor might know the interpreter, compromising confidentiality.
- Interviews with stakeholders brought to light the high incidence and extremely low reporting rates of sexual assault against people with cognitive disabilities, as well as a lack of specialized training in responding to survivors with cognitive disabilities. One practitioner noted a case of an adolescent with significant cognitive delays making a sexual assault report. The report was perceived as “not legitimate” by a responder who seemed to have misunderstood misunderstanding the cognitive ability of that survivor to fully and accurately account for the details of the assault.
- In interviews, several practitioners shared that they had observed cases where a lack of understanding about gender identity had led transgender survivors to be mis-gendered, creating further trauma and lack of trust in systems responses.²⁰

We know that people at the margins of our community are being sexually assaulted, and that local Native communities experience increased targeting for sexual assault and significant barriers in accessing safety and justice. The fact that we have little documentation regarding the unique voices of these survivors, and insufficient partnerships to seek and understand their voices, is a gap that must be explored further. In the future, we hope to have the opportunity to build stronger partnerships with Tribes, culturally specific community-based groups, and other underrepresented communities; further examine how biases and invisibility impact local survivors; and improve our practices to reduce and eliminate those impacts. Under other gaps, we address this theme by offering applicable recommendations for addressing these issues.

²⁰ “Misgendering” means using a word to refer to a person, especially a pronoun like (“he” or “she”) or form of address like (“Ma’am” or “Sir”) that does not correctly reflect the individual’s gender identity. This is particularly harmful to people who are transgender.

STRENGTH I:

Bellingham and Whatcom County agencies pro-actively committed to the intensive Audit process to examine our limitations and improve our systems responses, in order to seek justice for sexual assault survivors, accountability for offenders, and increased community safety.

“There were people who were champions for me and my dignity, my dignity was elevated by them, when I was living in shame. It’s a cultural tragedy that some of us have to hide.”

—Survivor

Perhaps the greatest strength exhibited in our community is the willingness and commitment to uncover our areas for growth and do better. From initial conversations to gauge our community’s interest and readiness for a Sexual Assault Audit, to formation of the Audit Team, our community has been clear in its commitment to improving survivor safety and offender accountability. We know that our systems are often not meeting the justice needs of survivors. Bellingham and Whatcom County agencies made the conscious choice to acknowledge, examine, and learn from our limitations to meet the needs of survivors and our broader community.

Focusing on survivor voices has provided a common thread and grounding point throughout the Audit process. Audit Team members regularly participated in reviewing and reflecting on survivor input and commented that continuing to refocus on survivors’ voices and experiences was a reminder of the core purpose of this work. In part because of the impact of survivor input, agency representatives often felt an imperative to immediately address several clearly identified needs, without waiting for data collection and this report to be complete. The following changes have already been implemented:

- After learning the impact that a lack of follow-up can have on survivors, the Forensic Nurse Coordinator at St. Joseph Medical Center proposed and is working to implement a procedure to institutionalize a follow-up process for all individuals who undergo a forensic exam at the hospital.

- A deputy prosecuting attorney made the decision to file charges on a current sexual assault case, knowing that it would be difficult to prosecute and that juries often do not find sexual assault survivors credible. The case was strengthened by the prosecutor’s ability to link the offender to additional sexual assault cases that had been previously closed.
- Upon learning that a sexual assault case with a witness had been closed in 2016 without being referred to prosecution, a detective sergeant immediately reopened the case, contacted the survivor, and referred the case to prosecution – within weeks of the statute of limitations.
- After identifying trauma-informed practices as a gap in law enforcement response to sexual assault, a detective sergeant who teaches interviewing skills courses in Whatcom Community College’s Criminal Justice Program immediately began to include educational materials on trauma-informed interviewing into the classes.
- Influenced by data from the Sexual Assault National Demonstration Audit, the Bellingham-Whatcom County Commission Against Domestic Violence voted to recommend that the City of Bellingham and Whatcom County expand the Commission’s mission to include sexual assault in addition to domestic violence.
- After receiving feedback about the experience of a transgender survivor who reported sexual assault, the Forensic Nurse Team and the Wednesday special assault response team proactively sought and received training on *Working with Transgender Survivors of Sexual Violence*.
- Based on a preliminary recommendation by the Audit Team’s national technical assistance providers, DVSAS implemented a new process to get both state and national criminal background checks on all volunteers.

The process of looking at our gaps can be challenging and uncomfortable. We are grateful for this community’s care and commitment to forging systems that are stronger, more effective, and safer.

“There was a single police officer, a woman, that made me feel like she believed me. She was kind and told me funny stories about her son on the way to the police station. It was nice.”

—Survivor

STRENGTH II:

Bellingham and Whatcom County agencies have functioning commitments to and frameworks for multidisciplinary collaboration and response to sexual assault cases.

“I was really grateful to the deputy who did the interview, so I decided to stay involved. I felt they were interested in justice.”

—Survivor

When asked what our community is doing well in response to sexual assault, practitioners and stakeholders often reference the community’s multidisciplinary approach. Bellingham and Whatcom County agencies place a high value on multi-disciplinary collaboration and coordinated community responses in domestic and sexual violence.

- The Wednesday special assault response team, facilitated by the Whatcom County Prosecutor’s Office, meets on a weekly basis for case consultations of domestic violence, sexual assault, child sexual assault, and stalking cases. This team consists of representatives from prosecution, law enforcement, community- and prosecution-based victim advocacy, the children’s advocacy center, victim support services, parole, child protection, SANE program, and others.
- The Forensic Nurse Team meets on a monthly basis for professional development, training, case consultations, and debriefing. A representative from DVSAS attends the Forensic Nurse Team meeting and other agencies, particularly law enforcement, are frequently invited to attend to collaborate on effective responses for sexual assault survivors who receive forensic exams in the hospital.
- The Domestic Violence High Risk Team (DVHRT), consisting of representatives from prosecution, law enforcement, community- and prosecution-based victim advocacy, probation, parole, perpetrator treatment, and child protection, meets monthly to monitor domestic violence offenders who have been identified as being at high risk for completing serious or lethal domestic assaults. A number of referrals to the high risk team have included domestic violence offenders with a history of sexual assault offenses.

- The Bellingham-Whatcom County Commission Against Domestic Violence was formed in 1998 as a joint resolution between the City of Bellingham and Whatcom County to address and improve our community's responses to domestic violence. Commission membership is appointed by City and County officials, and includes leaders in government, social services, the legal system, and many other public institutions. In 2019, the Commission expanded its mission to include sexual assault and changed its name to the Bellingham-Whatcom County Commission on Sexual and Domestic Violence.

Bellingham and Whatcom County have established strong relationships across systems and disciplines and are passionate about developing collaborative approaches to addressing sexual assault. We have the opportunity to use our existing relationships to frame a multidisciplinary response to address the findings and recommendations identified in this audit.

STRENGTH III:

The expertise and effort of individual service providers in sexual assault dynamics and trauma-informed care contributes to survivors' experiences of being believed, and increase survivors' sense of justice, dignity, and safety following a sexual assault.

"The Bellingham Police Officer was great. He believed me, he was kind, he got angry for me. He said, 'I'm so sorry that happened to you.'"

—Survivor

We hear from survivors that the care, compassion, and effort of individual practitioners within our systems have the ability to transform an otherwise traumatic experience into one of healing, safety, and justice. In every agency, we have found practitioners who have made a tremendous difference in the lives of survivors.

In one notable case, a detective conducted an extremely thorough and expeditious investigation on a sexual assault case involving a medical professional. The detective interviewed more than twenty collateral witnesses and identified additional survivors through the interviews. The detective interviewed survivors on multiple occasions, clearly documenting how they communicated that they did not consent to the sexual contact and the impacts of the assaults on their lives. The detective collected evidence to validate the survivors' accounts of the assaults: text messages; medical records; curricula, including ethics courses, from the offender's professional training; and interviews of other practitioners in the offender's professional field to establish expert input on the ways that the offender had touched the survivors. All of this was completed in just six weeks.

In another instance, a volunteer advocate from DVSAS met a sexual assault survivor at St. Joseph's Medical Center. The survivor was told that there was no forensic nurse available to provide the SANE exam, and that she should go to Providence Hospital in Everett, sixty miles south. The survivor asked the volunteer advocate if the advocate could go with her to Everett. Though it is outside the DVSAS service area and protocol, the advocate had already made a connection with the survivor; the advocate worried that if she didn't go with the survivor, the survivor might choose not to go to Everett to have the exam and miss the opportunity for timely evidence collection, reporting, and medical care. Additionally, the advocate knew that it could impact the survivor's healing and connections to ongoing advocacy services.

if the survivor's initial relationship with the volunteer advocate was disrupted. Therefore, the volunteer advocate checked in with her supervisor and was given permission to go to Everett, providing the survivor with much-needed trauma-informed continuity and support.

In another case, a deputy prosecuting attorney utilized the Audit Team's preliminary recommendation to use expert witnesses in sexual assault trials, and, for a local jury trial, identified and used expert testimony regarding the impacts of sexual assault trauma on survivors. The prosecuting attorney understood that widespread misinformation and misconceptions about sexual assault have a significant impact on the way that juries view survivors. Common effects of trauma are widely misunderstood and used to discredit survivors. For example, due to the effects of trauma on the brain, survivors often have difficulty remembering the details and sequence of the assault. This is frequently perceived as an issue of credibility—survivors are seen as inconsistent and dishonest—when in fact these are well-documented, normal physiological responses. By utilizing the expertise of a local psychologist who specializes in trauma, jurors were able to have these misconceptions dispelled and a better understanding of sexual assault dynamics. This was significant not only for the case in question, but for the impact on the members of the jury who may have increased skill and capacity to effectively understand or engage with trauma survivors in the future.

In an additional case, a survivor who had been sexually assaulted made the decision to disclose to a patrol officer on duty at the Transit Office based on her positive relationship with the officer. The survivor had become acquainted with the officer due to their presence near the bus station, and had developed a trusting relationship in which she felt respected. The survivor did not want charges to be pursued against the offender due to safety concerns and, as she reported, the stigma of the situation, but wanted to make a report because she had heard the offender had done this to other women. The officer explained the reporting process to the survivor, validated her safety concerns, and gave her options for follow up and reporting in the future. The Audit Team learned that the reported offender had been reported for sexual assault in other cases.

The Audit has been a significant learning process for the team. Throughout the Audit, team members have examined our biases, attitudes, and work practices in service to survivors. Team members have shown passion, care, and dedication to survivor safety, well-being, and sense of justice. These excellent practitioners serve as a model for what is possible in responses to sexual assault. The goal of our Audit recommendations is to harness the response of these individual practitioners, making such responses systemic and consistent for all survivors, and not reliant on the skills of any one provider.

GAP I:

There are systemic delays in processing sexual assault cases.

“My life was interrupted so much and for so long. In terms of justice, I wanted an interruption for his too, not just a 20-minute interview to explain his side of the story.”

—Survivor

OVERVIEW

Survivors of sexual assault who choose to report can experience significant delays from the time they report to the hospital to the time their case might appear in a courtroom. These delays negatively impact survivors’ sense of safety and justice, discourage survivor participation, and delay accountability for offenders. When survivors make the decision to report a sexual assault—whether at the hospital or with law enforcement—there is hope that something will be done. Though delay may be an expected part of the case process for service providers, delays communicate to survivors that their cases are not important, and may also contribute to safety concerns. Many survivors are fearful of retaliation and scrutiny within their communities after reporting the offender, and delays amplify their fear and anxiety.

DELAYS IN IMMEDIATE RESPONSE

For many survivors, a first point of contact in disclosing sexual assault with systems occurs in the emergency department. Following a sexual assault, survivors are often encouraged to go to the hospital for a forensic exam to collect evidence that could be used to identify and/or prosecute the offender, and to address the survivor’s medical needs. The exam and collection of evidence for sexual assault kits is a lengthy process, often taking four or more hours depending on injuries, the type of assault, the state of the survivor, and other factors.

Waiting for a forensic nurse to become available can add additional hours to the experience. Survivors regularly wait between one and four hours for a forensic nurse to become available. At times, survivors must wait even longer in the emergency department, travel to another hospital for the exam, or return to the hospital at a later time.

Forensic nurses operate on an on-call schedule, volunteering for forensic nurse shifts in addition to their regular full-time emergency department schedules. The on-call schedule is not always filled, and at times, nurses are on-call at the same time they are working their emergency department shifts. These factors mean that sometimes, there is no forensic nurse available and a forensic nurse must be called in. Other times, a forensic nurse is working in the emergency department and another nurse must be called in to work so the forensic nurse can be relieved of their ER duties to conduct the sexual assault exam. And in other instances, there is no forensic nurse available at all. Furthermore, the Forensic Nurse Coordinator at St. Joseph's Medical Center does not have supervisory authority over the forensic nurses, and therefore cannot mandate that they each sign up for a specific number of on-call shifts.

Emergency department nurses are given little incentive to complete forensic nurse training and to take on-call shifts. Most forensic nurses seek out these positions due to personal interest and passion. Additionally, to be a forensic nurse, the nurse must also be on staff in the emergency department; even nurses in other departments within PeaceHealth are not eligible to be forensic nurses. These factors lead to a shortage of forensic nurses, which contributes to gaps in the schedule and wait times for exams.

Survivors can also experience delays in responses from community based advocates. Survivors may access services at DVSAS in several ways—by calling the 24-hour helpline during business hours or after hours, by walking into the downtown support center for immediate services during business hours, or by requesting a forensic exam at the hospital, in which case hospital protocol necessitates the immediate dispatch of a DVSAS advocate. After business hours, survivors accessing the 24-hour helpline are first connected to an answering service which screens the call for appropriateness, asks survivors for their name and phone number, and then contacts an on-call advocate. The on-call advocate may have the call patched through to them immediately, or may call the survivor back within 15 minutes. When providing immediate in-person services during business hours at the downtown support center, DVSAS aims to respond to walk-in clients within 15 minutes; however, survivors and advocates note there are times in which advocates are not available to respond within the timeframe.

WHAT WE SAW AND HEARD

- In interviews and focus groups, we heard that survivors often experience a wait time in receiving a call back from DVSAS after business hours. Other survivors noted wait times when walking in for services during business hours.
- In stakeholder interviews, advocates noted delays in waiting for a forensic exam at the hospital; waits at times were as long as 8 or 10 hours. One advocate shared that a survivor she was working with chose to leave and forego the exam rather than wait.
- In stakeholder interviews, advocates shared that at times, survivors reporting to the hospital had been asked to leave and come back because there was no forensic nurse available to conduct the forensic exam, without instruction on preserving evidence. In other instances,

survivors had been told to go to a hospital in Skagit or Snohomish County for the forensic exam. This information was echoed by survivors in focus groups.

- In observations of Forensic Nurse Team meetings, nurses noted that on nights and weekends, there is rarely a forensic nurse on duty or on call. During one stretch, there were three weekends in a row when the hospital sent survivors to Everett for a SANE exam because the on-call forensic nurse was also working a shift at the emergency department and could not be relieved from duty to serve the sexual assault survivor.
- In an interview, a law enforcement stakeholder shared that if a survivor chooses not to pursue a sexual assault exam, law enforcement, prosecutors, and defense might question the survivor's credibility. They might question why a survivor who is "claiming rape" would not want "every single piece of evidence available to be collected," without understanding the delay at the hospital that impacted the survivor's decision about the exam.

"The last contact was in August 2016. I have heard nothing."

—Survivor

DELAYS IN CASE PROCESSING

Delays may occur at numerous points throughout systems' processing of sexual assault cases. When a sexual assault is reported, the timeliness of practitioner's responses can vary greatly depending upon the system's limitations. As described below, delays occur in the initial investigation period in assigning cases, scheduling interviews with survivors, and collecting evidence, as well as throughout the investigation and prosecution process. Institutional delays and the factors that contribute to them do not only prolong anxiety and safety concerns for survivors, but also can inhibit practitioners from conducting thorough investigations and building strong cases in an effort to seek justice and accountability. As time goes on, often without consistent communication and survivor engagement, survivors are left feeling as if they are in the dark about the status and progress of their cases.

WHAT WE SAW AND HEARD

- In a survivor interviews and focus groups, we heard:
 - One survivor noted that after her case was submitted for review to prosecution, it was months before she received any contact from either the prosecutor or law enforcement.

- Several survivors noted it was months before they heard about their case status from prosecution-based advocates.
- Survivors are not routinely referred to community-based advocacy services for ongoing support and information between case updates.
- Case reviews demonstrated that delays can occur in many points throughout investigations; many delays were related to high caseloads for practitioners. Team members noted significant delays in the following:
 - Assigning cases to detectives
 - Investigations being delayed
 - Detectives contacting survivors for follow-up interviews
 - Witnesses being identified and interviewed
 - Numerous continuances granted by the court
- A sampling of delays noted in cases reviewed include the following timelines:
 - **Case 1:** Survivor reported a sexual assault to law enforcement in November 2015. Case was forwarded to prosecution in April 2016. Case was declined by prosecution in March 2017. Timeline: 1 year, 4 months
 - **Case 6:** Survivor reported a sexual assault to law enforcement in March 2015. A witness was interviewed one month later. Case was closed with no action by law enforcement in October 2016. Case was reopened in February 2018 as a result of the Audit Team's case review and referred to prosecution, where it was then declined. Timeline: 2 years, 11 months
 - **Case 13:** Survivor reported a sexual assault to law enforcement in May 2016. In December 2016, detective noted in report that "due to case load, I have been unable to follow up." In February 2017, detective noted in report, "due to case load, I did not contact [suspect] regarding this case, since I was not hearing back from [victim]." Case closed with no further action in February 2017. Timeline: 9 months.
 - **Case 22:** Two witnesses report a sexual assault in progress to law enforcement in June 2016. Sentencing occurred in January 2018. Timeline: 1 year, 7 months

- **Case 28:** Survivor reported a sexual assault to law enforcement in June 2014. Case was referred to prosecution in July 2014 and declined. The survivor’s forensic exam evidence was never requested. In November 2017, due to an additional report of sexual assault committed by the same offender, law enforcement requested results of the survivor’s Sexual Assault Examination Kit that had been conducted in June 2014, connecting the suspect with two other reported sexual assaults. Probable cause was issued for the suspect in November 2017. Case is ongoing with trial scheduled for January 2019. Timeline: 4 years, 7 months as of the writing of this report.
- In interviews, several law enforcement practitioners noted that detectives must print out and hand-deliver their cases when referring to prosecution; electronic sharing of cases is not currently in place. This takes valuable time from detectives and supervisors.
- In an interview, a prosecutor stated that they review non-arrest sexual assault cases, “when I have time.” One law enforcement stakeholder shared that they currently had a case that was “pending review” for more than 9 months, and that this is common.
- In an interview, a prosecutor shared that they do not have time to prosecute cases effectively and expeditiously because of case load. Currently, prosecutors can have as many 140 cases at a time; the American Bar Association recommends a maximum of 70 felony cases per prosecutor.
- In several prosecution case files reviewed, delay between the initial report and the time at which the case was forwarded to prosecution was noted as a contributing factor to the decision not to charge the case.
- In stakeholder interviews, prosecutors, defense attorneys, and judicial officers all shared that delay is a deliberate tactic used by defense, so that evidence and survivor and witness testimony will become “stale” and to decrease the likelihood of conviction of the offender.
- In interviews, prosecutors and judicial officers talked about a Superior Court for trial confirmation hearings. Trials are scheduled to start on Mondays; trial confirmation hearings are set on the Wednesday before the trial is scheduled to start. At these hearings, defense attorneys regularly state that they do not have time to prepare the case with only 5 days before trial; judicial officers then continue the trial to a future date.
- In observations and stakeholder interviews, we learned that judges often continue sexual assault cases for years based on defense pre-trial motions.
- In an interview with the Washington State Patrol Crime Lab, we learned that testing of sexual assault kits can take up to 4 to 5 months, even for cases with high priority. Sexual assault kits that are not high priority may take years to be tested.

HOW IS THE GAP A PROBLEM?

Survivors shared that the moments in which they reached out for support are crucial. When survivors take the step of connecting with our systems, we have a critical opportunity to provide excellent, timely services or risk losing the trust and engagement of the survivor. Most practitioners operate within and act based on institutional time, with the understanding that legal systems work slowly and that sexual assault case processing may take years. However, survivors operate within and act on lived, personal time, and thus legal system delays can have serious repercussions, especially when survivors are in the process of healing from significant trauma. When significant delay is coupled with a lack of communication and follow-up for survivors, which we have identified as an additional gap, survivors feel that systems do not prioritize their safety or justice.

The decision to seek medical care and an exam following a sexual assault is a difficult choice for many survivors. Undergoing a sexual assault exam can be an intimidating and vulnerable experience, especially for someone who has experienced recent trauma and violation of their bodily autonomy. When a survivor learns that they will need to wait several hours for a forensic nurse to become available, it can communicate to survivors that their assault is not seen as urgent. When survivors are instructed to come back later, or to travel to another location, they may be discouraged and choose not to follow through on an exam. Survivors may or may not be instructed on how to preserve evidence while waiting, such as not eating, drinking, or showering. If survivors do choose to wait for an exam, travel to another location, or return later, evidence can become stale or be lost, and timely medical care is not provided. Moreover, if survivors choose not to have the exam because of the delays, it can impact how other systems professionals view their credibility and pursue investigating and prosecuting their cases.

Survivors report that delays in investigation and prosecution can create and prolong anxiety, and can make them feel they are not believed. Further, survivors report that delays in the criminal legal system can stand in the way of their healing process and other needs; create safety concerns; and lead to judgement from others in the community – including friends and family, workplaces, schools, and faith communities – who do not understand the slowness of the criminal legal system.

Delays in investigation and prosecution are also directly tied to another identified gap about a lack of criminal accountability for sexual offenders in our community, which includes and may enable repeat offenders, because delays in case processing weaken cases. Evidence can become old, especially as memories fade or become more confused over time. There are increased opportunities for survivors to forget or mis-remember details, and thus seem inconsistent in their stories. If there are significant delays, survivors may change phone numbers or move, and investigators or prosecutors may not be able to connect with them to provide information about the case, interview them again, or include them in prosecution of their case. And survivors often give up on the legal system and disengage from prosecution. All of these are factors in the overwhelming lack of accountability for sexual offenders.

WHAT CONTRIBUTES TO THE GAP?

- Rules and Regulations
- Administrative Practices
- Resources
- Concepts and Theories
- Education and Training

HOW DO WE CLOSE THE GAP?

ALL AGENCIES

- Develop protocols to diligently work to minimize delay and ensure that at every point of contact, all practitioners inform survivors of any expected timelines and potential delays and refer to community-based advocacy services.

DVSAS

- Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates.
- Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault, and consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics.
- Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy.

HOSPITAL

- Research best practices in forensic nurse scheduling and protocol, consulting with the [International Association of Forensic Nurses \(IAFN\)](#) and/or model SANE programs in other communities.
- Explore ways in which the pool of forensic nurses can be expanded by looking at recruitment, eligibility guidelines for being a forensic nurse, and compensation. Consult with the [International Association of Forensic Nurses \(IAFN\)](#) for technical assistance on further developing and contributing resources to the forensic nurse program.

- Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program.
- Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.
- Develop 24/7 FTE for forensic nurses, to ensure forensic nurse on-call coverage of all shifts and adequately compensate forensic nurses for their on-call time.

LAW ENFORCEMENT

- Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to detectives, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed.

PROSECUTION

- Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to prosecutors, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed.
- Develop a procedure and capabilities for electronic receiving of cases from law enforcement.
- Establish a policy to oppose defense requests for continuances unless required by statute or court rule. Anticipate defense requests for discovery so documents can be provided in a timely fashion.
- Set deadlines for reviewing sexual assault cases and develop procedures for regular supervisory review of pending cases to ensure deadlines are met.

ADDITIONAL RECOMMENDATIONS

- The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.
- Whatcom County explore increased funding for the Whatcom County Sheriff's Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.

- Whatcom County explore increased funding for the Whatcom County Prosecutor's Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner.
- Whatcom County Superior Court set trial confirmation hearings for 30 days prior to trial, rather than 5 days, to give defense more time to prepare for trial and decrease delay in proceeding with trials as initially scheduled.

GAP II:

Sexual assault survivors experience a lack of follow-up, communication, and engagement from responding systems.

“If nothing else were to change, it is that you need to tell the victim what is going on.”

—Survivor

OVERVIEW

Sexual assault survivors share that the lack of follow-up and communication they receive from systems is particularly detrimental to their ability to heal, move forward, and experience a sense of safety and justice following reporting. One survivor shared in a focus group that after taking her dog to the veterinarian, the office called the next day to follow up with her to see how she and her dog were doing with a new medication. However, after a sexual assault exam at the hospital she received no further follow up from either the nurse or the advocate. She was shocked that her dog was treated with such care and consideration, while there was seemingly no similar procedure in place for individuals receiving care for recent trauma. Survivors indicated a similar lack of communication and follow-up from the legal system.

Resource limitations and large caseloads within systems contribute to the lack of communication. Perhaps most importantly, there is a lack of clarity, policy, or protocol that dictates to practitioners who should contact survivors, when, and with what information. Furthermore, there is little to no communication among advocates, forensic nurses, law enforcement, prosecutors, and prosecution-based advocates about who is responsible for communicating with survivors to check on their safety and other needs, provide information about the status of their cases – including transferring of cases, closing cases, or declining cases – provide accurate information about upcoming case activities, and/or get their input at decision points.

We also noted a lack of communication among practitioners about case status: In interviews, forensic nurses said that they didn’t know what happened in their cases after conducting exams, and advocates said the same about cases after they provided support during an exam or interview. Patrol officers and detectives further echoed this sentiment – they shared that often, patrol doesn’t know what happens after they do the initial interview and detectives don’t know what happens to cases after they referred them to prosecution. All of these stakeholders indicated that they generally do want to know what is happening with cases after they have finished their part. This information is also useful to the

investigation process—officers want to know which pieces of their investigative work helped or hindered prosecution.

WHAT WE SAW AND HEARD

- In interviews and focus groups, survivors shared the following:
 - *"After the two-year anniversary of the incident, I hadn't heard anything so I called [law enforcement]. She told me that a few months after I reported they decided there was not enough evidence and no one ever told me they closed the case."*
 - *"I think checking in with the victim is huge. I mean, it's so hard to be sitting there with no information after going through this big process. I mean, no one from DVSAS called me to check in and no one from the courts contacted me. I must have called the detective a dozen times and I never heard back."*
 - *"I got a call saying that my attacker was released and never heard anything else about it. I felt alone and humiliated and like I had wasted everyone's time."*
- In interviews and focus groups, several survivors shared the following:
 - They didn't receive communication about the next steps after reporting; this was true across disciplines.
 - They didn't receive follow up from the hospital about the results of their SANE exam.
 - They didn't receive follow up or checking in from advocates after a SANE exam or initial crisis call and thus were not aware of the spectrum of community-based advocacy services available.
 - They were not notified by law enforcement when their cases were being referred for prosecution or being closed and not sent to prosecution for review.
 - They contacted detectives to find out about their cases, but never heard back.
 - Plea agreements were made or changed without notifying them.
 - They were not contacted by prosecutors or prosecution-based advocates about cases being reviewed, dismissed, or pled; or about sentencing or victim impact statements.
 - They were not notified when their offender was released from custody.

- They didn't receive communication about anonymous reporting options and kit testing results, or how the State Crime Lab would prioritize or not prioritize their kit for testing.
- Case reviews indicated a lack of follow up and communication. For example, in one case reviewed, this lack of follow up was clearly documented: Survivor reported to law enforcement in May 2016. December 2016, detective noted in report that "due to case load I have been unable to follow up." February 2017, detective noted in report, "due to case load, I did not contact [suspect] regarding this case, since I was not hearing back from [survivor]." Case was closed without action.
- Stakeholder interviews with law enforcement, prosecutors, and prosecution-based victim advocates indicated inconsistencies and confusion regarding whose role it is to engage with survivors and inform them of case status: Detectives felt that once a case is forwarded to prosecution it is "out of their hands" and further survivor engagement falls onto prosecution. Prosecutors shared that there is a perception that survivor engagement should fall to prosecution-based advocates, who have more expertise in working with survivors. And prosecution-based advocates felt that prosecutors should be the ones to communicate with survivors, especially if they are declining to prosecute their case. Further, these practitioners shared they generally don't reach out to survivors when they don't have any new information to share; at times, this results in survivors not being contacted for months about their cases.
- In interviews, stakeholders shared that across disciplines, agencies have no protocols, policies, or guidelines that direct them in their communication and follow up. This was true for community-based advocates, forensic nurses, law enforcement, prosecutors, and prosecution-based advocates.
- In systems mapping across all disciplines, consistent and timely follow-up and communication with the survivor was lacking. This lack of follow up was documented for DVSAS, SANE Program, Bellingham Police Department, Whatcom County Sheriff's Office, and Whatcom County Prosecutor's Office.
- Interviews and mapping indicated that across every system, survivors were expected to initiate contact if they had questions, wanted more information about their cases, or wanted community-based support.
- In interviews, stakeholders from the prosecutor's office shared that neither prosecutors nor prosecution-based advocates reach out to survivors when there is no update; for example, when the case has been handed over to the defense. They tell survivors that they can call the office with questions, placing the burden on the survivor.

- A review of *Whatcom County's 2007 Domestic Violence Safety and Accountability Audit: Findings and Recommendations for Prosecution and Probation Responses*, found that this lack of communication is an on-going problem in the case processing of other crimes of gender-based violence, such as domestic violence. The following gaps were identified in that Audit:
 - “Victims of domestic violence do not receive timely and consistent contact by and access to victim support services in the Whatcom County Prosecutor’s Office.”
 - “Whatcom County Prosecution domestic violence case files lack documentation regarding victim contacts and concerns, case progression, and decision-making.”

*“I cannot overstate the need to know what is
happening. I was so in the dark.”*

—Survivor

HOW IS THE GAP A PROBLEM?

Survivors share that lack of follow-up, communication, and engagement are particularly detrimental in their reporting experiences, leading to significant negative impacts on emotional well-being. It is traumatic for survivors to not hear anything back from the criminal legal system after the initial report-making phase. Survivors are overwhelmed and frustrated when systems “continually put things back” on them to do, such as calling to find out what is going on with their case. Additionally, the survivor lacks safety information; they are unaware of whether the suspect has been interviewed, arrested, or released. As discussed previously, widespread societal myths and misconceptions about sexual assault have a significant impact on how survivors are treated and seen in society and within their communities. As they receive victim-blaming social messages, survivors may experience significant societal pressure to disengage from the criminal legal system. Without strong survivor engagement and trust in responders, it is very easy for survivors to give up on systems processes.

A lack of engagement and communication with survivors may also lead to an erosion of trust in public systems. Survivors may form beliefs that systems do not care about sexual assault and may decide not to report future crimes. Additionally, because survivors are more likely to disclose their experiences of sexual assault to peers than to authorities, this perception regarding public systems can become widespread as survivors share their negative experiences throughout their community.

A lack of follow-up and engagement may be particularly painful for societally marginalized communities, especially communities of color and Native communities. Communities of color – who often experience

a lack of trust in systems due to historical oppressions that have excluded them from safety and justice – take a risk when they engage with public institutions. There may be significant community pressure to disengage from criminal legal systems, especially if the offender is also a member of the marginalized community; stakeholders in the local Tribal Nations have shared that this is particularly concerning to Tribal members, who may have close community relationships with the offender and the offender’s family and feel pressure not to report. When our systems do not effectively engage with survivors from the margins, survivors’ perceptions that systems will not meet their needs are confirmed, trauma is continued, and a community-wide lack of faith in systems intensifies.

Our systems cannot hold offenders accountable without maintaining engagement with survivors. Survivors who experience a lack of follow up or communication may no longer be interested in or willing to participate in the criminal legal response by the time contact is attempted or made, if it is at all. When survivors are no longer available to the system, the likelihood of successful prosecution is drastically reduced. This additionally presents significant consequences for community safety. Those committing sexual assault remain in the community without intervention or identification, and upon experiencing a lack of accountability, are often emboldened to commit sexual assault again.

“It feels like I’m a bystander to it all. I don’t know what is going on and it feels like I have the right to know what is going on, because it is my case. I don’t know who they are going to talk to or when.”

—Survivor

WHAT CONTRIBUTES TO THE GAP?

- Administrative Practices
- Resources
- Concepts and Theories
- Linkages
- Accountability
- Mission, Purpose, and Function

HOW DO WE CLOSE THE GAP?

DVSAS

- Implement an advocacy-initiated response for survivors of sexual assault, developing a procedure and timeline for follow-up, safety planning, and offering legal advocacy for all survivors who receive DVSAS support during a sexual assault exam, a call to the helpline, a walk-in at the downtown office, or reporting to law enforcement or other systems.
- Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates.
- Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault, and consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics.
- Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy.
- Establish protocol for offering to refer survivors to culturally specific advocacy services whenever possible, including Lummi Victims of Crime and [NW Network of Bi, Trans, Lesbian and Gay Survivors of Abuse](#). Increase collaboration with advocates from partner advocacy agencies to increase consistency and accuracy in messaging and information for survivors, and to ensure that survivors do not feel “passed off” by referrals.

HOSPITAL

- Develop a follow-up day for survivors to have scheduled appointments with a forensic nurse for aftercare, following a sexual assault exam. Follow-up care should address any next steps in medical care that were discussed, offer referrals to community-based advocacy service, and provide on-going options for reporting, if desired by the survivor.
- Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.
- Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program.

- Establish protocol that allows survivors to decide if they want to see an advocate from LVOC or DVSAS. When calling community-based advocates to provide support for survivors during forensic exams, say to the survivor: “I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?”

LAW ENFORCEMENT

- Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include notifications about case updates and delays, case decision points, timing of suspect interviews (particularly if there is a safety concern), and referrals of cases to prosecution. Follow-up should also include referring survivors to community-based advocacy services for information, advocacy, and support.

PROSECUTION

- Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include seeking survivor input on their justice needs and hopes for their cases; notifications of receiving case referrals from law enforcement, case updates and delays, case decision points, reviews of prosecution timelines and processes, and case declinations, dismissals, closures, or no-actions; timely preparation with survivors for impact statements; face-to-face meetings with survivors upon receiving cases; and providing referrals to community-based advocacy services for information, advocacy, and support.

DV COMMISSION

- Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases.
- Facilitate the SART to develop a “road map” for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines; who to call with questions; and survivor rights.

ADDITIONAL RECOMMENDATIONS

- The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.

- Whatcom County explore increased funding for the Whatcom County Sheriff's Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.
- Whatcom County explore increased funding for the Whatcom County Prosecutor's Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner.

GAP III:

The quality of institutional responses to reports of sexual assault is significantly influenced by perceptions of survivor credibility – often to the exclusion of investigating suspect behavior and credibility.

"I just remember the officer questioning my decision to go out with someone who I just met. Basically saying that the decisions I was making were not protective enough for me. I just remember how he just kept talking about his daughter and what he tells her to do to stay safe."

—Survivor

OVERVIEW

Credibility, as defined by Merriam-Webster, is *the quality or power of inspiring belief*. It is an opinion, not a fact. From the hospital, to law enforcement, to prosecution, interviews with survivors are, understandably, a key component of a case. Yet survivor credibility frequently was cited by practitioners across disciplines as the primary or, at times, sole standard by which they decide whether or not to pursue a sexual assault case. Sexual assault survivors already receive widespread cultural messages scrutinizing their choices and questioning their credibility. When institutional responses to sexual assault echo this societal scrutiny and are overly reliant on assessing survivor credibility, we confirm survivors' fears that they will be disbelieved or seen as responsible for their assaults. Moreover, we miss crucial opportunities to examine suspect behavior and credibility.

The focus on perceived survivor credibility directly leads to the lack of reporting, investigation, and prosecution in sexual assault cases. This is a national phenomenon, leading to a lack of justice for survivors and accountability for offenders:

"Researchers call it 'downstreaming' - the tendency of each person in the investigative chain to think about how the rape accusation will look to the next person to examine it. It begins with the victim - her fears about whether she might be judged by the cops about the length of her dress, or the number of tequila shots she drank. It next infects the police, who wonder what the prosecutor will think of a case with no physical evidence, only one person's word against another's. And finally it extends to the prosecutor, who must ponder how a jury will perceive a

woman's testimony. Doubt afflicted every stage of a rape prosecution." – Excerpt from A False Report, by Ken Armstrong and T. Christian Miller

When we examine the factors that may deem survivors as lacking in credibility, we often see that these are characteristics that are frequently targeted and exploited by offenders; the very characteristics that make a survivor a sympathetic or "good victim" in the eyes of the public are the exact opposite of those characteristics that make someone a "good target" for those who commit sexual assault. Offenders often select potential victims who are less likely to be believed and create scenarios that increase their likelihood of not being believed.

In order to escape accountability for his crimes, the perpetrator does everything in his power to promote forgetting. If secrecy fails, the perpetrator attacks the credibility of his victim. If he cannot silence her absolutely, he tries to make sure no one listens. – Excerpt from Trauma and Recovery: The Aftermath of Violence, by Judith Lewis Herman

The following chart details and contrasts examples of a lens focused on survivor credibility vs. a lens focused on suspect credibility:

| ISSUE | SURVIVOR-FOCUSED LENS | SUSPECT-FOCUSED LENS |
|-----------------------------|---|---|
| Trusted relationship | <i>The victim willingly hung out with him alone. Why did she go to his house alone with him? What did she think was going to happen? It looks like a hook up she regrets. She has a boyfriend. She previously sent him sexually explicit text messages. She was sexually interested in him.</i> | <ul style="list-style-type: none"> • The suspect may have been able to lure the victim alone with him because, up until that point, he gave her no reason to fear him or not trust him. The suspect knew he was a trusted friend. He was not someone the victim or others would ever think would commit sexual assault. • The suspect had never been caught before. His lack of criminal history further supported his "nice guy" image. • He tested the waters with her and built enough trust that she was willing to exchange sexually explicit photos and texts with him. • The suspect holds a higher social status or authority over the victim. The suspect has a good reputation. People like him. He appears and is known to be an upstanding citizen. |
| No Witnesses | <i>It's a "he said, she said" situation.</i> | <ul style="list-style-type: none"> • The community has not witnessed his violence and can't believe he is capable of sexual assault. It is easier for people to believe she is a liar (especially when he helps create and amplify that narrative) than to believe he sexually assaulted her. |

| | | |
|----------------------|---|--|
| Intoxication | <i>The victim was voluntarily drinking and drank so much she can't remember what happened. She does not remember consenting to sex. He says it was consensual sex. Maybe she did consent but was too drunk to remember?</i> | <ul style="list-style-type: none"> • The suspect purchased alcohol and provided drinks to the victim. He may have put something in her drink. He stayed with her until she was heavily intoxicated and/or blacked out and then sexually assaulted her. • The suspect was at the same bar or party and saw she was getting drunk. • While the victim says she does not remember what happened due to intoxication or drugging, the suspect's memory is not impaired. He texts her back that they had consensual sex. He adds that she was sexually aggressive toward him. • If she's too drunk to remember, she's too drunk to consent, so the issue of consent does not apply. |
| Mental health | <i>The victim openly confides, shares, or is known to experience mental health issues, depression, or bipolar disorder, or takes medication for a mental health condition, so maybe she's exaggerating or made it up.</i> | <ul style="list-style-type: none"> • The suspect knew the survivor and takes advantage of her needs, building her trust, and being there for her up until the assault. • The suspect knows that mental health stigma means that people with mental health disorders will be seen as less credible, stable, or truthful if they speak out about what happened. He tells others that she is "crazy." |
| Reputation | <i>She has a criminal history. She is sexually active or promiscuous. She has been sexually assaulted before. She reported the same thing in the past and nothing happened, so why would anyone believe her now?</i> | <ul style="list-style-type: none"> • The suspect targets victims whose social conditions and experiences will make her less believable and sympathetic—criminal history, drug use, and sexual activity are all factors that society uses to blame survivors for being sexually assaulted, or to discredit survivors' reports. • The suspect has heard that she was sexually assaulted in the past and that the charges were dropped. She has had a reputation as a liar and as being promiscuous since then, because the offender told everyone in their community that she had asked for it and then falsely accused him. The suspect knows that no one is likely to believe her again after what happened last time. |

Perceptions of credibility, rooted in societal stereotypes, implicit bias, and historical oppression, can also play a role in the ways that Native women are targeted for sexual violence, and subsequently believed. As detailed in Theme II, Native women experience the highest rates of sexual violence among all other racial and ethnic demographics in the United States, and experience significant barriers to justice.

“Historically, Indigenous women were raped by settlers and soldiers, including during the Trail of Tears and the Long Walk. Such attacks were not random or individual; they were tools of conquest and colonization. The attitudes towards Indigenous peoples that underpin such human rights abuses continue to be present in the USA today. They contribute to the present high rates of sexual violence perpetrated against Indigenous women and help to shield their attackers from justice. They also reflect a broader societal norm that devalues women and girls and creates power dynamics that enable sexual violence against women of all backgrounds.”²¹

Harmful social stereotypes about Native women may be exploited by those who commit sexual violence, and Native survivors of sexual assault may be apprehensive about coming forward. Survivors, as we have heard consistently throughout the Audit, are aware of the myths and misconceptions that exist in popular culture regarding sexual violence, and know that community institutions are not immune to the effects of these concepts. Likewise, Native survivors specifically not only navigate social misconceptions about sexual violence, but also stereotypes and myths about their racial identity. As systems seeking safety and accountability, we must ensure that our case assessments and investigations do not allow inaccurate and harmful stereotypes stand in the way of justice.

“But that’s what my experience was, like this numbing and this fog and you don’t want to tell anyone. And two cops here, I went to the cops and they say, ‘Oh we talked to him and he seems like a really nice guy,’ and this guy carries a concealed weapon and you’re like, this is a nice guy? So you shut up again.”

—Survivor

²¹ Amnesty International USA. [*Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*](#), (New York, 2007).

WHAT WE SAW AND HEARD

- In interviews and focus groups, survivors shared they feel often that they are being interrogated and blamed. Survivors said the following:
 - *“I was put under a microscope, like everything I did afterward was used against me.”*
 - *“Others said he was such a nice guy and I was penned as the drunk girl who got confused.”*
- In interviews and focus groups, survivors indicated that at times, detectives used language that suggested they were looking for inconsistencies in the survivor’s account of sexual assault while believing the suspect’s account—questioning why a survivor’s story did not align with the suspect’s account, or why the survivor stated that the “sex” was non-consensual when the suspect said it was consensual.
- In observations of case staffing at multi-disciplinary collaboration meetings, Team members noted that survivor credibility is regularly questioned, instead of examining why the suspect may have targeted her perceived vulnerabilities. For example, in one case, a practitioner questioned if the survivor was lying about the sexual assault to cover up that she had missed her curfew at home.
- In several cases reviewed, detectives began survivor interviews by stressing the importance of being “honest” and “telling the truth,” and noting that “sexual assault allegations are serious.” In one case, the detective asked the survivor why she was “ruining [the offender’s] life.”
- Language in case files often reflected a view that survivors lie; the Team noted the following examples from case files:
 - She “admitted” to having two drinks
 - She “did not seem upset” in the videos the offender took of the assault
 - She had “major credibility issues”
 - Something “seemed odd” with the survivor’s statement
- In an interview, a forensic nurse shared that a patrol officer told her about the survivor, “we don’t believe her, but she wants an exam.”
- Several reviewed cases showed a pattern of detectives seeming to believe suspects and not survivors when their stories contradicted each other. In one case, a detective asked the survivor why she had stated that she had never had consensual sex with the suspect, when the suspect

had told the detective that he had consensual sex with the survivor on previous occasions. In another case, the detective asked the survivor why she had described the suspect as large, when the suspect had not seemed that large to the detective. However, in suspect interviews, when suspects stated things like “her clothes started coming off” or “I could tell she was into it,” those statements weren’t probed or followed up on.

- In one case, a survivor’s account of her assault was repeatedly questioned due to a typo that had occurred in the initial report of the date of the assault. The survivor said that she had been sure of the date that the assault occurred, but the discrepancy in the initial report called her entire account into question. In the same case, the suspect was asked if “it was consensual,” to which he replied “yes.” There was no further probing into what made the suspect believe that the “sex” was consensual.
- In interviews and focus groups, law enforcement practitioners shared that they are trained to interrogate suspects, pay close attention to inconsistencies, and identify deception, and would like to receive training specific to interviewing survivors. Practitioners apply suspect interrogation skills to survivor interviews, which are decidedly not trauma-informed methods.
- In several cases reviewed, there were missed opportunities for investigating suspect credibility and corroborating survivor reports; these included:
 - Interviewing collateral witnesses, including former partners of the suspect, or people the suspect had been with immediately prior to or after the assault.
 - Interviewing other individuals with whom the survivor had disclosed the assault.
- In interviews, detectives shared that if they view survivors as not credible, they will not pursue additional case details such as suspect or collateral interviews; and prosecutors shared that their perceptions of survivor credibility play a significant role in their decisions on whether or not to file charges and pursue prosecution. One prosecutor noted that the designation “insufficient evidence” as a reason to decline a case often was related to “victim credibility.”
- In an interview, one practitioner shared that a survivor did not seem credible because she had met a man through an online dating service and engaged in consensual sex in their first encounter. In an additional encounter with the same person, she was sexually assaulted. Later, she agreed to consensual sex again with the offender. The practitioner determined that this did not fit the behavior of a survivor.
- In an observation of a trial, the jury did not convict the offender because the survivor lied about a contact she had with her boyfriend; the jury then did not believe her story about the sexual assault but did believe the offender despite contradictions in his story.

- A stakeholder in the criminal legal system noted that it is important for law enforcement not only to document things about the survivor, but also about the defendant, his conduct, and any “grooming” behavior that served to bring the survivor or keep the survivor close or in contact. The stakeholder stated that there are excellent detectives, but they aren’t always developing cases that document offender behavior, predation, and grooming skill, resulting in survivors getting inconsistent investigations in their cases.
- In interviews and observations, Team members noted that prosecutors rarely use expert witnesses to explain survivor vulnerability, suspect grooming and targeting, impacts of trauma, and what the behavior of a survivor can look like during and after experiencing trauma like sexual assault. Team members further noted that prosecutors rarely use voir dire (a preliminary examination of a witness or a juror by a judge) as an opportunity to explore potential jurors’ implicit biases and educate potential jurors about societal myths and misconceptions about sexual assault.

HOW IS THE GAP A PROBLEM?

When survivors are not believed because they cannot give all the details or a linear account, or misremember some details or the timeline, they are not perceived as credible. If a survivor chooses not to disclose everything about their sexual assault or their personal lives – or to not disclose everything in their initial report – they are also not perceived as credible. Yet all of these “credibility” issues are directly impacted and explained by the impact of trauma and survivor fears of being judged, blamed, or disbelieved. Moreover, when either circumstances or identities of the survivors are targeted by offenders – such as when survivors are homeless, intoxicated, engaging in prostitution, undocumented, or Native – then our systems reinforce societal myths and misconceptions about sexual assault, increase the trauma of reporting, decrease survivor trust and engagement in systems, and miss opportunities to hold offenders accountable.

When their credibility is the primary focus, survivors feel interrogated and blamed for their experience of sexual assault, causing additional trauma which may result in the survivor shutting down and disengaging from the criminal legal system. Survivors internalize messages that they alone – not those who have caused the harm—are responsible for their safety, contributing to increased isolation in the community. As discussed in previous gaps, survivors may lose trust exit systems deciding they cannot return to them for help in the future. Future crimes may not be reported by survivors and those who hear about their experiences. Another consequence of unaddressed trauma—both as a result of the sexual assault itself and the experience of being disbelieved by systems—can involve survivors turning to substance abuse as a coping mechanism, eventually drawing them into the criminal legal system as defendants.

Maintaining a focus on survivor credibility also prevents our systems from achieving accountability or intervention for people who commit sexual assault. When the focus of a case lies on the survivor’s behavior or choices, even those choices that are unrelated to the assault, those who committed sexual

assault are empowered to believe and message in the community that the survivor is not a victim but that they – the accused – is the actual victim of an overzealous system. Furthermore, offenders may continue to commit sexual assault because they have gotten away with it in the past.

This focus on survivor credibility and lack of accountability creates numerous consequences in the community. The community expects systems to be organized with experts in their fields of service, and thus when our systems do not effectively seek or achieve justice, reputations of systems are harmed. Additionally, women continue to be taught that they are responsible for keeping themselves safe in the community when in truth, no matter how much women protect themselves, they can still be sexually assaulted. Sexual violence continues to occur at epidemic rates, marginalized communities remain especially accessible for those who target them, cases are not prosecuted, and serial offenders are empowered to continue sexually assaulting others.

WHAT CONTRIBUTES TO THE GAP?

- Administrative Practices
- Concepts and Theories
- Mission, Purpose, and Function
- Accountability
- Education and Training

HOW DO WE CLOSE THE GAP?

ALL AGENCIES

- Encourage practitioners throughout systems to take the online [Implicit Association Test](#), which is publicly available on a variety of topics, including race and gender.
- Encourage practitioners to attend Lummi Victims of Crime's Annual Domestic Violence and Sexual Assault Conference each October, a local and culturally specific training that offers opportunities for increasing knowledge, decreasing bias, and developing or strengthening partnerships.
- Encourage practitioners to participate in Lummi Victims of Crime's annual walk to honor Missing and Murdered Indigenous Women to show solidarity and support.

LAW ENFORCEMENT

- Implement procedures to assign all reported sexual assault cases to detectives and refer all sexual assault cases to prosecution. Upon prosecutorial review, detectives should complete any follow-up requested by the prosecutor to strengthen the case.

- Implement report writing guidance for investigators and reviewing sergeants so that reports contain appropriate use of language and components based on best practices. Implement best practices in report writing to remove language of consensual sex in sexual assault cases and to remove opinion-based statements. Utilize EVAWI webinar on [Effective Report Writing: Using the Language of Non-Consensual Sex](#) and IACP [Sexual Assault Incident Reports: Investigative Strategies](#) resources for guidance.
- Implement utilization of EVAWI and DOJ resources to reduce gender bias in sexual assault cases:
 - [Reducing Gender Bias in Sexual Assault Response and Investigation](#)
 - [Uncovering Sexual Assault in Domestic Violence Calls: An Improved Law Enforcement Response to Assess for Sexual Violence, Build an Evidence Based Case and Reduce Gender Bias](#)
 - [Identifying and Preventing Gender Bias in Law Enforcement Response To Sexual Assault and Domestic Violence.](#)
- Reduce discretion that leads to gender bias by implementing tools from the International Association for Chiefs of Police (IACP), including:
 - [Sexual Assault Incident Reports: Investigative Strategies](#)
 - [Model Policy on Investigating Sexual Assaults](#)
 - [Supplemental Report Form for Sexual Assault](#)
 - [Sexual Assault Report Review Checklist](#)
 - [Bringing Sexual Assault Offenders to Justice](#)
 - [Concepts and Issues Paper on Investigating Sexual Assaults.](#)

PROSECUTION

- Explore the possibility of creating a small “unit” of prosecutors specialized in adult (16+) sexual assault cases.
- Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference:

- [Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection](#)
- [Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions](#)
- [Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias](#)
- [Voir Dire and Prosecution Tips for Sexual Assault](#)
- [Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups](#)
- Clarify and elevate the role of the Whatcom County Prosecutor's Office in its responsibility to survivors and the public to seek justice, not only in cases they are sure they can win: *"The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict."* –American Bar Association
- Establish protocol to flag concerns about potential lines of questioning about survivor history as a pre-trial motion, so the judge has the opportunity to rule before the trial.
- Implement procedures requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy prosecutor whenever possible, before officially declining, closing, dismissing, or no-actioning cases, and provide oversight to ensure the survivor is notified in a timely and trauma-informed manner.
- Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if there are such opportunities, to request that law enforcement seek and provide that evidence.
- Encourage all prosecutors to utilize the following resources:
 - One-to-one case consultation, technical assistance, and mentoring from attorney advisors at [AEquitas Prosecutors Resource Center on Violence Against Women](#)
 - [National Sexual Assault Investigation and Prosecution Best Practice Guide](#), a white paper published by the National District Attorneys Association in January 2018
 - *Strategies: The Prosecutors' Newsletter on Violence Against Women, Beyond Conviction Rates* (article or webinar), *Expert Testimony on Victim Behavior* (article), *Model Response to Sexual Violence for Prosecutors* (article), and *Overcoming the Consent Defense* (article), [all resources from AEquitas](#).

DV COMMISSION

- Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases.
- Facilitate the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases.
- Facilitate conversations with the SART and other multi-disciplinary groups to develop a set of values to guide practitioners to talk about sexual assault, cases, and survivors in ways that dispel societal myths and misconceptions.
- Promote and support Lummi Victims of Crime's Annual Domestic Violence and Sexual Assault Conference.
- Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.
- Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including:
 - Utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws
 - Uncovering and overcoming gender and racial bias through jury selection and education
 - Identifying and using expert witnesses
 - Trauma-informed interviewing
- Offer increased learning opportunities for responding systems and for Commission members and their agencies to explore topics of implicit gender and racial bias as they relate to sexual assault, as well as additional learning on sexual assault myths and misconceptions and how they negatively impact survivor safety and justice and offender accountability.
- Develop and implement a messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault.

GAP IV:

There is a lack of criminal accountability for reported sexual assault offenders in our community, which includes and may enable serial offenders.

“I wanted him to feel bad and know that his actions have consequences.”

—Survivor

OVERVIEW

Sexual assault is the most under-reported serious crime with extremely low rates of conviction. Survivors know this, offenders know this, and our systems know this, leading us into an endless feedback loop that leaves us with no opportunity for justice and accountability. When our systems accept the notion that sexual assault is too difficult to prove, we effectively normalize this crime and continue messaging to the community that there is no accountability for committing it.

“...prosecutors often argue that their ethical obligations require them to pursue only those cases that they believe are likely to result in prosecution. However, the Model Rules of Professional Conduct – as well as many mirroring state rules – that govern prosecutorial decisions indicate several factors, in addition to the probability of conviction, that the prosecutor should consider when exercising their discretion to prosecute a case. Further, prosecutors’ determinations of the probability of conviction are easily influenced by their own biases, misconceptions, or experiences. As such, if prosecutors are not regularly charging, investigating, preparing, and trying seemingly “challenging” cases, they become incapable of determining whether cases are or are not likely to result in a conviction”. – *Beyond Conviction Rates: Measuring Success in Sexual Assault Prosecutions*²²

This lack of accountability is particularly concerning due to the prevalence of serial offenders. David Lisak’s research on repeat sexual assault offenders indicates the following:

“Pooling data from four samples in which 1,882 men were assessed for acts of interpersonal violence, we report on 120 men whose self-reported acts met legal definitions of rape or attempted rape, but who were never prosecuted by criminal justice authorities. A majority of

²² Long, J.G. and Nugent-Borakove, E., *Strategies: The Prosecutors’ Newsletter on Violence Against Women*, (AEquitas, 2009).

these undetected rapists were repeat rapists, and a majority also committed other acts of interpersonal violence. The repeat rapists averaged 5.8 rapes each. The 120 rapists were responsible for 1,225 separate acts of interpersonal violence, including rape, battery, and child physical and sexual abuse. These findings mirror those from studies of incarcerated sex offenders (Abel, Becker, Mittelman, Cunningham-Rathner, Rouleau, & Murphy, 1987; Weinrott and Saylor, 1991), indicating high rates of both repeat rape and multiple types of offending.”²³

In collecting data, the Audit Team was surprised to learn that several unrelated cases that were reviewed referenced repeat offenders. By examining the criminal history of offenders and witnesses identified in the cases, the team noticed that there were offenders who had been reported for sexual assault in the past, but not criminally charged. Due to the nature of the offense and broad lack of criminal accountability for sexual assault offenders in our community, we know that often these offenders have and will sexually assault again.

Accountability for offenders who commit sexual assault against Native women is particularly low. As discussed in Theme II and below, numerous barriers impact systems’ efforts to hold these offenders accountable, particularly issues of jurisdiction. The prevalence of missing and murdered Indigenous women—often cases with limited documentation and accountability, as outlined in the Seattle Indian Health Board’s 2018 report—is serious cause for concern. As we pursue accountability for sexual offenders, we must continuously center communities that experience the greatest barriers and seek ways of strengthening our systems responses to achieve justice for all survivors.

“Improve your investigations, don’t stop at he said, she said.”

—Survivor

WHAT WE SAW AND HEARD

- In interviews and focus groups, survivors said the following:
 - *“At the time, I was humiliated. I just wanted to crawl into a hole and never come out. A few years later I wish I would have told people. I wish these people could be held*

²³ Lisak, D. and Miller, P. M., “Repeat rape and multiple offending among undetected rapists.” *Violence and Victims*, 17, no. 1 (2002): 73-84.

accountable for their actions or at the very least, that others were aware of their actions.”

- *“I just want him to acknowledge what he did, to say he’s sorry and he understands that it was wrong.”*
- In interviews, stakeholders noted that there were inconsistencies in the quality of documentation in forensic nurse reports.
- In interviews, law enforcement and prosecutors spoke of the limitations of time to spend on sexual assault cases, given their high caseloads. One detective stated, “if we had more time to investigate, we’d do a better job for the community.”
- In an interview, a forensic nurse stated that she had conducted more than 150 sexual assault forensic exams and had never been called to testify in a case.
- In an observed case, the prosecutor decided not to call the forensic nurse as an expert witness regarding the lack of injury to a survivor’s genitals; lack of injury is actually common in sexual assault cases, but the jury didn’t know that because no one testified to this fact. The jury cited lack of injury as one of their primary reasons for not convicting.
- Case reviews indicated a lack of communication between prosecution and law enforcement may create missed opportunities to further strengthen cases. Prosecution may not receive sufficient evidence from law enforcement investigations to file charges, and yet, without feedback regarding what is needed, law enforcement does not have direction in strengthening investigations.
- In interviews, law enforcement practitioners noted that after a case has been referred to prosecution, there is a perception that the role of law enforcement is complete, and practitioners immediately move on to new cases, creating barriers to completing additional investigation.
- In stakeholder interviews with law enforcement and prosecution, it was shared that not all sex offenses involving adult survivors are forward to the prosecutor’s office for review. All sex offenses involving child victims are forwarded, as required by state statute.
- A criminal legal stakeholder stated in their interview that jurors have a hard time believing that sexual assault occurs in our community, and that prosecutors need to get jurors past their initial denial. However, according to their observation, prosecutors often miss opportunities to educate jurors, such as through voir dire and using expert witnesses.

- Case reviews, observations of case staffings, and stakeholder interviews uncovered multiple cases in which a previously reported offender – who was not initially prosecuted – went on to sexually assault others. Examples include:
 - A man brutally physically and sexually assaulted a woman who was homeless and Native. While looking up his case as part of a case review, it was noted that several years prior, he had been reported for another very similar sexual assault which was never prosecuted. The second case was prosecuted and pled down to Assault II. The sexual assault kit was never tested and the offender was not convicted as a sex offender.
 - A woman was walking home from visiting with one of her adult children when she was picked up and raped by a man. She reported the case and a forensic exam was conducted, but the suspect was not found.
 - Approximately 18 months later, two teenage girls were kidnapped and raped. Forensic evidence collected from the survivors matched that of the DNA collected from the survivor in the case above, as well as another case in California.
 - A jury acquitted a man who was prosecuted for sexual assault, because the survivor lied under oath about a detail unrelated to the sexual assault, choosing to overlook that the suspect had also lied under oath. This offender has been previously accused of sexual assault, and is portraying himself to the community as “innocent” and a victim of an unfair prosecution.
 - In interviews, stakeholders shared the importance of collecting and tracking forensic exam kits and DNA, and how this evidence can be used to detect serial offenders, even when a survivor disengages from the criminal legal system or a suspect is not initially located.
- The Team noted several gaps in systems’ ability to hold those who commit sexual violence against Native survivors accountable:
 - Tribal law enforcement officers are not deputized in Whatcom County due to insurance and training requirements which are a barrier for Tribes.
 - At times, when Lummi Law and Order detains a non-Native suspect, Whatcom County Sheriff’s Office or Washington State Patrol have a delayed response or decline to arrest.

- Tribal law enforcement officers do not have the inherent authority to pursue a fleeing suspect after the suspect leaves the reservation/Tribal land.²⁴
- According to local law enforcement, there are local online message boards that “coach” offenders on how easy it is to rape Native women on reservations and get away with it by taking advantage of the limits on Tribal jurisdiction in sexual assault cases.

HOW IS THE GAP A PROBLEM?

A lack of accountability for those who commit sexual assault has negative impacts for survivors’ well-being and community safety. Survivors can experience guilt for not having been able to prevent the offender from harming others, perpetuating feelings of anger and trauma. When survivors learn there have been other victims, they are concerned about why the system did not work to prevent future sexual assaults, and why there is a lack of protection, acknowledgment, and support for them and other survivors. Frustration grows in the community about system failure in response to sexual assault.

Serial rapists continue to evade accountability, and there are new experiences of harm and trauma suffered in the community. Offenders who evade accountability may present themselves as the victims of an overaggressive system and are empowered to assault again. Additionally, the widespread lack of criminal accountability for sexual assault means that sexual assault can become normalized in the community and perceived as non-criminal.

A lack of accountability for offenders also means that communities who are routinely targeted for sexual violence, especially Native women, continue to experience alarmingly high rates of sexual assault. Trauma is perpetuated and Native communities lose faith that justice is possible within public institutions. Additionally, when Native survivors disengage from systems, systems lose powerful opportunities to center the justice needs of Native communities and learn from Native voices.

“I wanted acknowledgment that it happened. It felt unfair when the officer asked if I thought he would do it again. He already did it once! I was like - that should tell you something.”

—Survivor

²⁴ *State vs. Erikson*. 172 Wash. 2d 506, 259 P.3d 1079 (2011).

WHAT CONTRIBUTES TO THE GAP?

- Administrative Practices
- Resources
- Concepts and Theories
- Mission, Purpose, and Function
- Accountability
- Education and Training

HOW DO WE CLOSE THE GAP?

HOSPITAL

- Explore ways in which the pool of forensic nurses can be expanded by looking at recruitment, eligibility guidelines for being a forensic nurse, and compensation. Consult with the [International Association of Forensic Nurses \(IAFN\)](#) for technical assistance on further developing and contributing resources to the forensic nurse program.
- Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program.

LAW ENFORCEMENT

- Re-visit cross-deputizing Lummi Law & Order officers to close loopholes in accountability for non-Tribal members who commit sexual assault on the reservation.
- Develop a screening procedure, database, or software that can be used to easily and routinely match offenders in current reports with past cases across law enforcement jurisdictions, initiating the process of identifying serial offenders.
- Research and implement applicable elements of the International Association of Chiefs of Police (IACP) resources:
 - [Sexual Assault Incident Reports: Investigative Strategies](#)
 - [Model Policy on Investigating Sexual Assaults](#)
 - [Supplemental Report Form for Sexual Assault](#)
 - [Sexual Assault Report Review Checklist](#)
 - [Bringing Sexual Assault Offenders to Justice](#)

- [*Concepts and Issues Paper on Investigating Sexual Assaults.*](#)
- Develop investigative protocols for sexual assault that include steps for identifying all relevant, potential witnesses and evidence, including electronic evidence. Utilize the following resources for guidance: [Digital Evidence: Successfully Identifying and Acquiring Electronic Evidence to Combat the CSI Effect](#) and [Sexual Assault Incident Reports: Investigative Strategies](#).
- Implement procedures to assign all reported sexual assault cases to detectives and refer all sexual assault cases to prosecution. Upon prosecutorial review, detectives should complete any follow-up requested by the prosecutor to strengthen the case.
- Implement protocol to request that all sexual assault kits be tested and processed to support identification of serial sexual assault offenders.

PROSECUTION

- Re-visit cross-deputizing Lummi Law & Order officers to close loopholes in accountability for non-Tribal members who commit sexual assault on the reservation.
- Explore the possibility of creating a small “unit” of prosecutors specialized in adult (16+) sexual assault cases.
- Implement procedures requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy prosecutor whenever possible, before officially declining, closing, dismissing, or no-actioning cases, and provide oversight to ensure the survivor is notified in a timely and trauma-informed manner.
- Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if there are such opportunities, to request that law enforcement seek and provide that evidence.
- Implement procedure to regularly identify common themes and barriers that factor into decisions to decline, close, dismiss, or no-action cases, and collaborate with the DV Commission, technical assistance providers, and AEquitas to improve institutional responses and overcome themes that are barriers to justice.
- Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference:

- [*Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection*](#)
- [*Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions*](#)
- [*Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias*](#)
- [*Voir Dire and Prosecution Tips for Sexual Assault*](#)
- [*Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups*](#)
- Encourage all prosecutors to utilize the following resources:
 - One-to-one case consultation, technical assistance, and mentoring from attorney advisors at [AEquitas Prosecutors Resource Center on Violence Against Women](#)
 - [*National Sexual Assault Investigation and Prosecution Best Practice Guide*](#), a white paper published by the National District Attorneys Association in January 2018
 - *Strategies: The Prosecutors' Newsletter on Violence Against Women, Beyond Conviction Rates* (article or webinar), *Expert Testimony on Victim Behavior* (article), *Model Response to Sexual Violence for Prosecutors* (article), and *Overcoming the Consent Defense* (article), [all resources from AEquitas](#).

DV COMMISSION

- Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to consult on and strengthen investigations and prosecutions in adult sexual assault cases.
- Facilitate the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases.
- Facilitate the SART to research and develop processes, including non-investigative or an updated anonymous reporting system, which identify serial offenders and provides a way to notify survivors about serial offenders if desired.
- Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.

- Seek training for Commission members and partner agencies on the Violence Against Women Act (VAWA) and its implications for Tribal sovereignty and jurisdictions, justice for Native survivors, and accountability for offenders.
- Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including:
 - Utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws
 - Uncovering and overcoming gender bias through jury selection and education
 - Identifying and using expert witnesses
 - Trauma-informed interviewing

ADDITIONAL RECOMMENDATIONS

- The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.
- Whatcom County explore increased funding for the Whatcom County Sheriff’s Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.
- Whatcom County explore increased funding for the Whatcom County Prosecutor’s Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner.

“As someone who never reported, I never once considered justice to be in the realm of possibilities for me.”

—Survivor

GAP V:

Across systems there is lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement.

“There are so many missed opportunities by people in power to even acknowledge harm done, to offer condolences.”

—Survivor

OVERVIEW

Across disciplines, a lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement contributes to survivors’ experiences of being disbelieved and negatively impacts survivors’ sense of justice, dignity, and safety following a sexual assault. This gap is closely related to the first theme identified in this report regarding societal myths and misconceptions about sexual assault as well as Gap IV regarding assessments of survivor credibility. Myths about sexual assault that perpetuate ideas that survivors are to blame for their assaults are powerful and inform survivors’ experiences of reporting. Without a thorough understanding of sexual assault dynamics and trauma, practitioners may unintentionally perpetuate these harmful misconceptions themselves, or may miss opportunities to effectively engage survivors by actively dispelling these myths.

Our community’s response to sexual assault must be intentional and proactive. It is not enough to know that sexual assault is wrong and that survivors are not to blame—we must actively message this to survivors throughout every step of their engagement with our systems, and utilize methods that acknowledge and seek to lessen trauma. Survivors regularly navigate victim-blaming messages in their day-to-day lives and are well-aware of the myths that society holds about sexual assault. Systems can provide a powerful interruption to this harmful messaging by ensuring that practitioners who respond to reports of sexual assault have a comprehensive understanding of what sexual assault looks like, how trauma impacts survivors, and the best-practices that promote survivor engagement, safety, and justice.

Survivors also have unique needs for effective engagement that are impacted by identities such as being LGBTQ+ or Native. This section outlines the Audit Team’s recommendations for best-practice survivor engagement and trauma-informed services; however, the unique and culturally relevant needs of individual survivors must also be explored and prioritized. Meaningful services and engagement are not universal, but must adapt to the needs of the survivor. Systems can improve survivors’ experiences of

safety, dignity, and justice in sexual assault case processing by strengthening institutional awareness of the identities that contribute to the survivor's experience and consulting with or referring to culturally-specific advocacy agencies whenever possible.

Those responding to reports of sexual assault must have a comprehensive understanding of the criminal legal system and sexual assault case processing. Survivors have shared how important it is for them to know what to expect in reporting and to be informed in the processing and status of their cases. Ensuring that survivors have the information that they need delivered in a trauma-informed manner is part of effective engagement.

"The detective did not want to recommend prosecution because it would be too hard for me. I would rather fail trying to prosecute someone who did an awful thing than to just give up. It's already been too hard on me."

—Survivor

WHAT WE SAW AND HEARD

- In interviews and focus groups, survivors noted the following:
 - *"I called the hotline right after, I had seen the number up around town, and it was really jarring because the first thing they did was ask for my name and phone number to call me back. I almost hung up because I had wanted to be anonymous and it felt really vulnerable to give that information out."*
 - *"I have been assaulted multiple times. I reported one and the experience was so traumatic that when I was assaulted again, I didn't even entertain the idea of reporting."*
 - *"I wish there were more trauma-informed and culturally competent police."*
- In interviews and focus groups, survivors further shared:
 - They would like to be able to connect with community-based advocates via text.
 - When receiving community-based advocacy services at the downtown support center and in the hospital during forensic exams, they received limited or no information about

the reporting process, the criminal legal system, what would happen next, and the appropriate agencies to contact with questions.

- One survivor was not notified until the day of sentencing about the actual hearing time, even though she had told the prosecution-based advocate that she needed to arrange childcare in advance. Then the time she was told ended up being wrong, and she was waiting alone in the courtroom before someone found her.
 - One survivor felt unsafe in the courthouse and was in close proximity to her offender; an advocate had asked her to walk right by the offender to leave the courtroom.
- Case file reviews showed a consistent lack of trauma-informed interviewing; Team members documented the following:
 - Interviews with survivors were conducted more as suspect interviews
 - Child advocacy center interview language was used with a teenager
 - Reports use language such as “sex” when rape is what happened
 - Reports use the language “he said-she said”
 - In a case with a young adult, a prosecutor communicated information to her parents before asking the survivor if it was okay to contact them
 - A file stated that no evidence of forcible sexual assault was discovered during the examination at a family medicine practice
- Through stakeholder interviews across disciplines, it became apparent how many times survivors are asked to tell their stories – by forensic nurses, patrol, detectives, and prosecutors. One stakeholder stated that this is because state law does not allow “medical/law enforcement joint interviewing” for adult sexual assault cases. Medical/law enforcement and law enforcement/prosecution joint interviewing is used in child sexual abuse cases as a trauma-informed approach.
- In interviews, advocates shared that they do limited safety planning with survivors of sexual assault, if any; safety is often not on their radar in the same way it is with domestic violence. Advocates further shared that they have less knowledge and are less comfortable with the criminal legal system as it applies to sexual assault cases than they are with its application to domestic violence.

- In interviews, volunteer advocates shared that they feel overwhelmed and intimidated by providing support during forensic exams, and question how to engage survivors during the long waits, what information to provide, and how to advocate most effectively.
- In an interview, a detective noted that the perceived emotional strength of the survivor is a factor in considering whether or not to forward the case to prosecution, often questioning if prosecution is in the best interest of the survivor.
- In interviews and focus groups, law enforcement indicated they had received little to no training on interviewing survivors or trauma-informed interviewing; rather, their training is focused on interviewing suspects and detecting evasion and deception. Law enforcement stakeholders stated a desire for more best-practice tools and training for interviewing survivors.
- In systems mapping, the Team noted that at times the hospital forgets to call an advocate to provide support during the SANE exam; and that law enforcement and prosecutors rarely contact a community-based advocate to be present with survivors during interviews, unless the survivor is already working with an advocate. Moreover, practitioners rarely make referrals to community-based advocacy support, except as part of the SANE exam.
- In interviews, advocates and nurses noted there is confusion at times about when the hospital should call an advocate from Lummi Victims of Crime (LVOC) to respond for a sexual assault exam instead of an advocate from DVSAS. Hospital protocol states that LVOC should be called for all Native survivors, it is not clear how hospital staff determines whether or not the survivor is Native. In many cases, advocates from only DVSAS are called; in other cases, advocates from both agencies are called, which is awkward for survivors and responders, and a duplication of effort.
- In systems mapping, it was detailed that cases are assigned to prosecution-based advocates based on which prosecutor has the case, so opportunities to develop expertise in specialized types of victimization such as adult sexual assault may not be available to all advocates.
- In interviews, prosecutors and prosecution-based advocates shared that there is often an initial “meet and greet” with survivors when prosecution receives a case. At this point, a lot of information is verbally communicated about next steps and timelines. Survivors often feel overwhelmed by the information and cannot remember what to expect. Little to no information is provided for survivors in writing.
- In an observation, a prosecutor made the comment that a survivor they were working with “seemed to have it together” and indicated that this contrasted with another survivor who did not show up for a meeting.

- In interviews, stakeholders noted that defense has the opportunity to interview survivors. Prosecutors can be present during those interviews but do not represent the survivor. The prosecutor's office indicated that they try to exercise what control they can over the environment, such as scheduling the interview in their office rather than the defense attorney's office, but they can't prohibit the interview.
- In an observation of a Sexual Assault Protection Order (SAPO) hearing, it was noted that the Commissioner asked the survivor what was fair regarding the exclusion zone when the offender protested about the impact the order would have on his employment.
- In an observation of sentencing, a survivor indicated that she was surprised and displeased by the plea agreement, saying, "well that's a crappy plea"; she had wanted significantly more accountability than was agreed to. However, the prosecutor indicated to the judicial officer that he had sought survivor input and that the plea met the survivor's goals for accountability. The survivor contradicted this view during her victim impact statement, stating that she believed that the offender planned his actions and would do it again, and that she wanted him to receive the maximum sentence.

"The detective called to tell me the prosecutor wasn't taking my case. The detective said that I didn't sound very upset, like I didn't react however I was expected to. I was in the lunchroom at work – I wasn't in a place to react."

—Survivor

HOW IS THE GAP A PROBLEM?

When survivors engage with systems that are not equipped with a comprehensive understanding of sexual assault, and do not have institutionalized, trauma-informed survivor engagement practices in place, they may be exposed to additional trauma and harm. Survivors report that they feel traumatized by their interactions with systems when they are disbelieved, scrutinized, and subjected to delays, and this trauma can impact survivors' well-being in numerous ways. Survivors shared that, following their assaults and interactions with systems, they experienced depression, anxiety, guilt, and shame; isolated themselves from their communities; had to leave their employment or drop out of school; lost faith in systems and practitioners; and self-medicated with drugs and alcohol.

Further, when survivors feel that they are disbelieved, questioned, or misunderstood in their interactions with systems, they are unlikely to continue to engage in the reporting and criminal legal process. This is not only problematic for survivors, but also for accountability and community safety. As we have seen in other gaps, effective survivor engagement is essential to offender accountability. When survivors are not effectively engaged with trauma-informed practices, our community loses opportunities to seek justice and hold offenders accountable for the harms they commit. We also lose opportunities to increase community safety, and to improve the trust and faith that our community holds in our systems, particularly communities who experience marginalization.

When systems are not equipped to provide comprehensive trauma-informed services for survivors, they generally are also not offering adequate responses to vicarious trauma for practitioners. Policies and procedures need to be in place to adequately address the nuanced dynamics of sexual assault and the vicarious trauma that practitioners experience as a result of responding; to debrief and process the trauma of sexual assault cases; or to openly and consistently acknowledge shared community and agency values regarding sexual assault. Otherwise, practitioners can experience burn-out and compassion fatigue which may impact the ways that they are able to respond to survivors needs.

WHAT CONTRIBUTES TO THE GAP?

- Administrative Practices
- Resources
- Concepts and Theories
- Education and Training

HOW DO WE CLOSE THE GAP?

Note: Many of the recommendations under this gap address the overarching themes identified in the Audit. Trauma-informed care, at its core, necessarily includes dispelling societal myths and misconceptions about sexual assault and identifying and overcoming implicit biases and historical oppressions.

ALL AGENCIES

- Establish protocol for practitioners to begin their interactions with survivors by using statements of support or validation, including statements such as “I’m sorry this happened to you,” “I believe you,” or “I’m sorry to meet under these circumstances.”
- Establish protocol for practitioners to explain to survivors the “why” behind the questions. For example:
 - “I am asking you how much you drank because we may be able to prove that you were too intoxicated to consent.”

- “I am asking you what you were wearing so I can determine if there is clothing I should be collecting as evidence.”
- “I am asking if you had other sexual partners within the last few days to see if we need to make sure that we identify the right DNA.”
- Encourage practitioners to view the following resources and consider how they can meet the needs of survivors and overcome barriers to justice for survivors and accountability for offenders in their systems:
 - Book: [Missoula, By Jon Krakauer](#)
 - Podcast: [Anatomy of a Doubt, by This American Life](#)
 - [RCW: Victim Bill of Rights](#)
- Establish procedures to address how practitioners are supported in responding to reports of sexual assault, including processes for debriefing and addressing burn-out and vicarious trauma.
- Seek and implement increased training and partnership opportunities for practitioners serving communities that are historically marginalized and underrepresented to address unique needs and barriers, including people who are LGBTQ+, people who are Deaf, and people of color. Establish protocol to consult with and refer to culturally-specific advocacy agencies whenever possible.
- Establish protocol for practitioners to routinely refer to sexual assault advocates for case consultation, resources, and information regarding sexual assault, and invite advocates to support survivors during case processes.
- Assess agency’s language access policies to ensure safe, meaningful language access for survivors of sexual assault, consulting with the [Asian Pacific Institute for Gender Based Violence](#) for recommended practices and tools.
- Encourage all practitioners to review data collected by the DV Commission on the impact of federal immigration policy on reporting by survivors of domestic and sexual violence, and implement the accompanying recommendations to increase safety and access.
- Explore the implementation of a system to disaggregate data collection systems to be able to identify race-specific data on reports of sexual assault.

DVSAS

- Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates.
- Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault, and consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics.
- Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy.
- Create shadow shifts for volunteers for their first responses to SANE exams and implement peer debriefings and reviews of support provided during SANE exams.
- Implement a method for survivors to connect directly with advocates via text or online.
- Explore strategies to overcome the impact of calling an answering service after hours, including creating and marketing videos and other materials that demonstrate the process of calling the helpline after hours, and increasing trauma-informed training for the answering service.
- Establish protocol for offering to refer survivors to culturally specific advocacy services whenever possible, including Lummi Victims of Crime and [NW Network of Bi, Trans, Lesbian and Gay Survivors of Abuse](#). Increase collaboration with advocates from partner advocacy agencies to increase consistency and accuracy in messaging and information for survivors, and to ensure that survivors do not feel “passed off” by referrals.
- Certify an advocate to engage in accessing legal remedies for immigrant victims: <http://cliniclegal.org/accreditation>

HOSPITAL

- Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program.
- Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.

- Establish protocol that allows survivors to decide if they want to see an advocate from LVOC or DVSAS. When calling community-based advocates to provide support for survivors during forensic exams, say to the survivor: “I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?”

LAW ENFORCEMENT

- Sign U-Visa applications for survivors of sexual assault who are undocumented immigrants and participating in the criminal legal process, per [House Bill 1022 requirements](#). Refer survivors to civil immigration attorneys and advocates if there are concerns about potential negative implications of a U-Visa application for a survivor’s continued presence in the U.S.
- Institutionalize trauma-informed interview training and techniques – such as Forensic Experiential Trauma Interviewing – as a necessary skill for all officers responding to sexual assault. Utilize EVAWI resource for guidance: [Trauma Informed Interviewing - Turning Understanding into Outcomes](#). Require all officers to view the YouTube Video: *Sexual Assault: A Trauma-Informed Approach to Law Enforcement First Response*, [part I](#) and [part II](#) as part of annual training.
- Implement protocol to standardize recording all survivor interviews, whenever possible and consented to, to ensure the survivor does not have to re-tell events. Survivors should not be asked to prepare handwritten statements.
- Implement protocols for interviewing survivors of sexual assault which are parallel to the recommended protocol for interviewing officers involved in critical incidents. For example, officers should conduct only brief interviews with survivors immediately after an incident; in-depth interviews with survivors should take place after a few sleep cycles.
- Implement protocol to standardize officer debriefing after sexual assault calls, as they do after major incidents such as homicide, to decrease burnout and impact of vicarious trauma.
- Implement utilization of EVAWI and DOJ resources to reduce gender bias in sexual assault cases:
 - [Reducing Gender Bias in Sexual Assault Response and Investigation](#)
 - [Uncovering Sexual Assault in Domestic Violence Calls: An Improved Law Enforcement Response to Assess for Sexual Violence, Build an Evidence Based Case and Reduce Gender Bias](#)
 - [Identifying and Preventing Gender Bias in Law Enforcement Response To Sexual Assault and Domestic Violence](#).

- Reduce discretion that leads to gender bias by implementing tools from the International Association for Chiefs of Police (IACP), including:
 - [*Sexual Assault Incident Reports: Investigative Strategies*](#)
 - [*Model Policy on Investigating Sexual Assaults*](#)
 - [*Supplemental Report Form for Sexual Assault*](#)
 - [*Sexual Assault Report Review Checklist*](#)
 - [*Bringing Sexual Assault Offenders to Justice*](#)
 - [*Concepts and Issues Paper on Investigating Sexual Assaults.*](#)

PROSECUTION

- Sign U-Visa applications for survivors of sexual assault who are undocumented immigrants and participating in the criminal legal process, per [House Bill 1022 requirements](#). Refer survivors to civil immigration attorneys and advocates if there are concerns about potential negative implications of a U-Visa application for a survivor’s continued presence in the U.S.
- Explore the possibility of creating a small “unit” of prosecutors specialized in adult (16+) sexual assault cases.
- Develop protocol for standardized training for all Prosecution-Based Advocates in adult sexual assault advocacy. All Prosecution-Based Advocates should be experts in adult sexual assault advocacy.
- Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference:
 - [*Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection*](#)
 - [*Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions*](#)
 - [*Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias*](#)
 - [*Voir Dire and Prosecution Tips for Sexual Assault*](#)

- [*Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups*](#)
- Require all prosecutors to review the video [*Integrating a Trauma-Informed Response*](#) from AEquitas.
- Develop protocol for preparing survivors for defense interviews, ensuring survivors are aware of their rights, explaining the limited role of the prosecutor, and notifying survivors that they can have their own attorney or advocate present.

DV COMMISSION

- Develop and implement a messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault.
- Facilitate the Sexual Assault Response Team (as recommended in this report) to develop a “road map” for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines, including who to call with questions and survivor rights.
- Facilitate the SART to explore the possibility of joint interviewing of adult sexual assault survivors with law enforcement, noting EVAWI’s [*Best Practice Recommendations for Joint Interviewing*](#).
- Facilitate the SART team to develop protocols for a coordinated initial response for survivors by forensic nurses, law enforcement, and advocates, to reduce the number of times the survivor has to tell their story.
- Promote and support Lummi Victims of Crime’s Annual Domestic Violence and Sexual Assault Conference.
- Collaborate with Lummi Victims of Crime to collect and highlight data about local missing and murdered Indigenous women.
- Explore and research the development of an equity and diversity advisory board for receiving guidance for Commission-led projects, and for members and their agencies to receive guidance on their work, with special attention given to the ways that Native partners are equitably represented in grant and project-development phases.
- Offer increased learning opportunities for responding systems and for Commission members and their agencies to explore topics of implicit bias as they relate to sexual assault, such as a workshop from the Seattle-based [*People’s Institute for Undoing Racism*](#) or from [*Race Forward’s Building Racial Equity*](#) program.

- Support systems in assessing language access practices and in implementing recommendations from the [Asian Pacific Institute for Gender Based Violence](#) or other technical assistance providers to implement meaningful language access opportunities.
- Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.
- Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including:
 - Utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws
 - Uncovering and overcoming gender bias through jury selection and education
 - Identifying and using expert witnesses
 - Trauma-informed interviewing
- Explore methods for increasing opportunities for survivor input and feedback on strengths and gaps in the systems response, such as creating victim input panels, conducting on-going survivor interviews and focus groups, and/or creating a database for survivor input.

“Sometimes the way agencies respond, or don’t respond to you, ends up actually being worse of an experience than the incident.”

—Survivor

CONCLUSION

“There were people who were champions for me and my dignity was elevated by them when I was living in shame. It’s a cultural tragedy that some of us have to hide.”

—Survivor

The Audit Team has worked consistently to collect data, identify gaps, and develop recommendations for over a year and is proud to provide this document from which to build a coordinated community response to sexual assault. Recommendations in this report are made in an effort to strengthen our systems responses improve survivors’ experiences of justice through the criminal legal system, and how we hold those who commit sexual assault accountable.

While this Audit examined an extensive variety of data regarding systems responses to sexual assault, the findings and recommendations of the Audit reflect the information that was most available to examine, and the voices of survivors who were most willing to speak about their experiences with us. The unique experiences and needs of survivors who are underserved in our society— including immigrants, survivors with limited English proficiency, survivors with disabilities, Deaf survivors, survivors who are LGBTQ+, and Native survivors— may not be fully represented in this report. Moving forward, we are committed to further examining these areas by working to build stronger partnerships with Tribes, culturally specific community-based groups, and other underrepresented communities, and improving our practices to reduce barriers which disproportionately impact marginalized communities.

Sexual assault is a pervasive crime with lasting traumatic impacts on survivors and our community as a whole. However, we know our systems’ responses can make the experience of reporting an assault positive, validating, and healing. We have the opportunity to ensure that survivors are met with respect and compassion when they engage with our systems, and that the justice needs of survivors— to be believed; to be informed; for case processes to be conducted in a timely and trauma-informed manner; and for offenders to be held accountable— are continuously centered in our work. The members of this team, as well as the agency and department leaders who have supported this Audit, represent key stakeholders in our community’s response to these important issues, and are committed to assisting each other to support implementation of these recommendations.

APPENDIX A: BACKGROUND, METHODOLOGY, AND AUDIT PROCESS

BACKGROUND

Survivors of sexual assault across the country are reporting poor and unsatisfactory experiences with criminal legal intervention. Increasingly, communities such as Bellingham-Whatcom County, WA seek to apply the Praxis Safety and Accountability Audit (Audit) process and tools to determine what it is about the response that leads to missed opportunities for justice for survivors and accountability for offenders. In 2015, Praxis International was funded by the Office on Violence Against Women (OVW) to identify a team of national experts on audits and sexual assault criminal case processing to partner with and support a local team of practitioners to conduct a demonstration Audit of criminal legal system responses to sexual assault.

In 2016, Bellingham-Whatcom County received funding to conduct an audit of our community's response to sexual assault to develop insight into the justice needs of sexual assault survivors from responding institutions. As a result of previous partnerships, Praxis and Bellingham-Whatcom County agreed to collaborate to implement this National Demonstration Audit to identify: 1) ways to improve local response to sexual assault in Whatcom County, and 2) new Praxis resources, tools, and strategies that will support more communities in enhancing their response to sexual assault.

METHODOLOGY

The Audit is a tool developed by Praxis International, a non-profit organization working to end violence against women and children, for use by interdisciplinary groups and advocacy organizations to further their common goals of meeting the needs of survivors, whether through enhancing safety, increasing survivors' sense of justice, or ensuring accountability of offenders. Its premise is that workers are institutionally organized to do their jobs in particular ways—they are guided to do their jobs by the forms, policies, philosophy, and routine work practices of the institution in which they work. When these work practices routinely fail to adequately address the needs of people, it is rarely because of the failure of individual practitioners. It is a problem with how their work is organized and coordinated. The Audit is designed to allow an interagency team to discover how problems are produced in the structure of case processing and management.

Typically, the Audit is an interdisciplinary self-assessment tool. Communities conducting Audits appoint local practitioners to a working group called the Audit Team. This team maintains responsibility for completing the Audit process, making recommendations for improvement, and acting as ambassadors for implementation of those recommendations. The Bellingham-Whatcom Audit Team also included national Audit Team members including Praxis staff and consultants as well as project partners bringing expertise in criminal case processing of sexual assault and Audits: Minnesota Indian Women's Sexual Assault Coalition, Mending the Sacred Hoop, Sexual Violence Justice Institute at the Minnesota Coalition Against Sexual Assault, and Battered Women's Justice Project.

The Audit process involves examining whether institutional policies and practices enhance features such as the safety and well-being of survivors of violence against women, as well as enforce perpetrator accountability—or, as in our case, the justice needs of survivors. The Audit does not assess individual effectiveness or actions. The Audit involves mapping the system, interviewing and observing workers, gathering information directly from survivors through focus groups, surveys, and interviews, and analyzing paperwork and other texts generated in the handling of violence against women-related cases. Recommendations coming out of an Audit process are directed toward institutional changes that will enhance survivor safety and well-being, and perpetrator accountability.

The Audit focuses on a question that the community wants to explore. All Audits are designed to look for how institutional responses centralize or marginalize attention to survivor safety and well-being in case processing routines. Many communities want to conduct their Audit through a particular lens. For example, one Audit Team representing over twenty community agencies asked the question, “How do each of our interventions enhance or undermine battered women’s relationships with their children?” Another community asked, “What is the decision-making process that results in the removal, non-removal, or return of children in families experiencing the co-occurrence of domestic violence and child maltreatment?” The question should be relevant to the community conducting the Audit and centered on the experiences of survivors.

OUR SCOPE

We defined the scope of our audit as regarding sexual assault cases where the survivor was 16 or older at the time of the assault, and, whenever possible, focused on cases where there was some prior relationship between the survivor and the offender – even if that relationship was minimal – and consent was therefore identified as the issue in question for the criminal legal system. We limited our focus in this way for several reasons. Systems responses to sexual assault of adults and sexual abuse of children are quite different. Additionally, the way our community views and responds to high-profile sexual assault cases—often involving strangers and physical injuries beyond the sexual assault—is very different from how we see cases without physical injuries.

Our community has a Children’s Advocacy Center which offers support and intervention for children and families experiencing child sexual abuse within one location, as well as a multi-disciplinary special assault response team which routinely consults on child sexual abuse cases. Most practitioners and community members do not have difficulty identifying the lack of consent when a young child is sexually assaulted, or when a person is sexually assaulted by a stranger on a trail, for example. However, we find that when consent is in question, our community is much more likely to fall back on societal myths and misconceptions about sexual assault to explain the incident.

Sexual assault cases in which consent is identified as an issue in question by the criminal legal system are less likely to be prosecuted and we are less likely to see accountability for offenders. It was important for us to focus our scope on survivors who were most likely to experience institutional gaps and barriers in accessing safety and justice.

AUDIT TEAM

The Audit Team consists of practitioners from agencies involved in the case processing under review. All Audit Teams have a significant presence of community-based advocates who have expertise in the dynamics of domestic abuse and/or sexual assault and a close relationship with survivors. The goal is to have an analysis that incorporates the knowledge of a cross section of people who work with these cases every day. Audit Team members must be committed to interagency cooperative work, confidentiality as agreed upon by the team, and an openness to find and fix problems without creating interagency conflicts. Our Audit Team was led by staff from the Commission on Sexual and Domestic Violence, and included representatives from the following agencies:

- Bellingham Police Department
- Domestic Violence and Sexual Assault Services
- KPO Counseling
- St. Joseph Medical Center
- Western Washington University
- Whatcom Community College
- Whatcom County Prosecutor's Office
- Whatcom County Sheriff's Office

CONFIDENTIALITY

The Audit involves local team members who have access to sensitive information and records. Team members sign a confidentiality agreement that indicates their understanding that Audit information is to be used and discussed only in reference to this specific Audit. They do not discuss details of cases with co-workers, friends, or family. The Audit Team decides, with approvals from their respective agencies, on a process for handling and redacting case files. No individual Audit Team member speaks on behalf of the Audit without the team's approval. Audit Teams may decide to make their work public or not; individuals do not make that decision.

AUDIT TRAILS

Audit data collection and analysis focus attention on eight primary methods that institutions use in standardizing actions across disciplines, agencies, levels of government, and job function. These "audit trails" help point the way to problems and solutions.

1. **Rules and Regulations:** any directive that practitioners are required to follow, such as policies, laws, memorandum of understanding, and insurance regulations.
2. **Administrative Practices:** any case management procedure, protocols, forms, documentary practices, intake processes, screening tools.
3. **Resources:** practitioner case load, technology, staffing levels, availability of support services, and resources available to those whose cases are being processed.
4. **Concepts and Theories:** language, categories, theories, assumptions, philosophical frameworks.

5. **Linkages:** links to previous, subsequent, and parallel practitioners.
6. **Mission, Purpose, and Function:** mission of the overall process, such as criminal law, or child protection; purpose of a specific process, such as setting bail or establishing service plans; and, function of a worker in a specific context, such as the judge or a prosecutor in a bail hearing.
7. **Accountability:** each of the ways that processes and practitioners are organized to a) hold abusers accountable for their abuse; b) be accountable to survivors; and, c) be accountable to other intervening practitioners.
8. **Education and Training:** professional, academic, in-service, informal and formal.

In an Audit, ***the constant focal point is the gap between what people experience and need and what institutions provide.*** At the center of interviews, observations, and case file analysis is the effort to see the gap from a survivor's position and to see how it is produced by case management practices. In locating how a problem is produced by institutional practices, the Audit Team often simultaneously discover how to solve it. Recommendations then link directly to the creation of new standardizing practices, such as new rules, policies, procedures, forms, and training.

AUDIT TEAM TRAINING

The Whatcom County Sexual Assault National Demonstration Audit Team convened with an intensive Audit training by Praxis International in October 2017. The Audit Team was joined by the following national technical assistance (TA) providers: Kata Issari, Praxis International; Denise Eng, Praxis International; Diane Docis, Praxis International; Leah Lutz, Sexual Violence Justice Institute at Minnesota Coalition Against Sexual Violence; Rhonda Martinson, Praxis International; Tina Olson, Mending the Sacred Hoop; Anton Tripolskii, Battered Women's Justice Project; and Amanda Watson, Minnesota Indian Women's Sexual Assault Coalition.

All national TA providers played a crucial role in the facilitation of the Audit training, sharing important information regarding their experiences with Audits, and working in partnership with the local Audit Team throughout the intensive data collection week that followed. The training modeled how the different audit activities are conducted by members of the Audit Team, including written instructions and guidelines, examples from previous audits, in-person live demonstrations, and hands-on practice.

AUDIT TEAM ACTIVITIES

Following the Audit training, the Audit Team completed an intensive audit week in which over 80 data collection activities were completed. Following the intensive audit week, Audit Team members were assigned additional data collection activities and the team met on a nearly monthly basis for extended meetings to share, review, and analyze data. Data collection activities were completed in groups of two or three in order to review the data from multiple viewpoints. Altogether, the Audit Team completed more than 120 data collection activities between July 2017 and October 2018.

Audit Team data collection activities included:

- Survivor Focus Groups and Interviews:
 - 2 survivor focus groups totaling 13 participants
 - 17 survivor interviews
 - 4 survivor surveys
- Mapping of systems case processing of sexual assault:
 - Bellingham Police Department
 - Domestic Violence and Sexual Assault Services
 - PeaceHealth at St. Joseph Medical Center Emergency Department
 - Western Washington University
 - Whatcom Community College
 - Whatcom County Prosecutor's Office
 - Whatcom County Sheriff's Office
- Case Reviews:
 - 15 from Bellingham Police Department
 - 10 from Whatcom County Sheriff's Office
 - 2 from Ferndale Police Department
 - 1 from Lynden Police Department
 - 1 national case review
- Text Analysis and Research:
 - Bellingham Police Department, Policies and Procedures
 - DVSAS, Volunteer Advocate & Facilitator Training Curriculum Materials
 - Prosecution files for corresponding law enforcement cases
 - Psychology Today Article, *Is Tinder Really a Hookup App?*
 - Review of 2006 Audit/Study completed by the Council on Crime and Justice, *Understanding the Needs of the Victims of Sexual Assault in the Deaf Community*
 - Webinar hosted by Amanda Watson, Minnesota Indian Women's Sexual Assault Coalition, *Primer on VAWA and Jurisdiction in Indian Country*
 - Whatcom County Sheriff's Office, Policies and Procedures
 - Whatcom County data on sexual assault reports to law enforcement, sexual assault exams, and sexual assault convictions between 2015 and 2017
 - DVSAS Training at PeaceHealth St. Joseph Medical Center for medical providers, *Working with Transgender Survivors of Sexual Assault*
 - LVOC Annual Sexual Assault Awareness Conference, *Traffick Stops Here*
 - WWU Public Lecture, *Ending Rape*, by Keith Edwards, sponsored by WWU's Men's Resiliency Center
 - PeaceHealth St. Joseph Medical Center, Forensic Nurse Stephanie Wahlgren, Sexual Assault Kits Presentation

- WSP State Crime Lab Presentation at May 2018 Forensic Nurse Team Meeting
- Big Picture Interviews:
 - Bellingham Police Department, Deputy Chief
 - Bellingham Police Department, Family Crimes Unit Detective Sergeant
 - DVSAS Executive Director
 - Former Advocate for Nooksack Tribe
 - Lummi Victims of Crime Coordinator
 - Northwest Justice Project Attorney
 - PeaceHealth at St. Joseph Medical Center, Emergency Department Manager
 - PeaceHealth at St. Joseph Medical Center, Forensic Nurse Team Coordinator
 - PeaceHealth at St. Joseph Medical Center, Patient Care Director
 - Washington State Patrol, Marysville Crime Lab Supervisor
 - Western Washington University, Vice Provost for Equal Opportunity and Employment Diversity and Title IX Investigator and ADA Coordinator
 - Whatcom County Prosecuting Attorney's Office, Chief Criminal Deputy Prosecuting Attorney
 - Whatcom County Prosecutor
 - Whatcom County Sheriff
 - Whatcom County Sheriff's Office, Major Crimes Detective Sergeant
 - Whatcom County Superior Court Judge
- Practitioner Interviews:
 - Bellingham Police Department, Family Crimes Unit Sergeant Detective
 - Brigid Collins Family Support Center, Children's Advocacy Center Coordinator
 - Community to Community Development Volunteer
 - Department of Corrections Bellingham Field Office, Community Corrections Officer & Pre-Sentence Investigator
 - DVSAS, Advocate and Support Group Coordinator
 - DVSAS, 24 Hour Services Manager
 - DVSAS, New Volunteer Advocate
 - DVSAS, Reception/Office Manager
 - DVSAS, Support Program Manager
 - Ferndale Police Department Detectives
 - Hearing, Speech and Deaf Center Program Coordinator
 - Lummi Law and Order Detective
 - Lummi Victims of Crime Advocate
 - PeaceHealth at St. Joseph Medical Center, Triage Nurse
 - Western Washington University, Consultation and Sexual Assault Support Coordinator
 - Whatcom County Prosecutor's Office, Deputy Prosecuting Attorney
 - Whatcom County Prosecutor's Office, Senior Deputy Prosecuting Attorneys
 - Whatcom County Prosecutor's Office, Victim Witness Unit Advocate

- Whatcom County Public Defender's Office, Chief Deputy
- Practitioner Focus Groups:
 - Bellingham Police Department, Family Crimes Unit Detectives
 - Bellingham Police Department, Patrol Officers
 - Multi-Agency Practitioner Focus Group with Community-Based Victim Advocates
 - PeaceHealth at St. Joseph Medical Center, Forensic Nurses
 - Western Washington University, Students
 - Whatcom Community College, Students
 - Whatcom County Sheriff's Office, Patrol Deputies
- Observations:
 - Whatcom County Courthouse
 - PeaceHealth at St. Joseph Medical Center, Monthly Forensic Nurse Team meetings
 - Whatcom County Superior Court sentencing hearings – with and without pre-sentence investigations
 - Weekly special assault meetings, hosted by the Whatcom County Prosecutor's Office
 - PeaceHealth at St. Joseph Medical Center, Emergency Department
 - Whatcom County District Court Sexual Assault Protection Order (SAPO) Hearings
 - Whatcom County Superior Court Trial, Testimony of Expert Witness Dr. Katie Olvera

APPENDIX B: AGENCIES AND ABBREVIATIONS

Bellingham Police Department (BPD)

The Bellingham Police Department is the primary law enforcement agency for the city of Bellingham. The BPD has primary jurisdiction for criminal investigations within the City of Bellingham.

Bellingham-Whatcom County Commission on Sexual and Domestic Violence (DV Commission)

The DV Commission was formed in 1998 by a joint resolution between the City of Bellingham and Whatcom County to provide leadership in the community's efforts to reduce and prevent domestic violence. In 2018, the DV Commission voted to expand its mission to include sexual assault.

Domestic Violence and Sexual Assault Services (DVSAS)

DVSAS is a community-based advocacy agency, offering services including, but not limited to advocacy-based counseling, safety planning, legal advocacy, and safe shelter for survivors of domestic violence, dating violence, sexual assault, sexual exploitation, and stalking.

Lummi Nation Police Department (LPD)

Lummi Nation Police Department is the primary law enforcement agency for Lummi Nation. The LPD has jurisdiction for criminal investigations that occur within Lummi Nation, although authority is limited, as described in this report.

Lummi Victims of Crime (LVOC)

LVOC is a Tribal agency within Lummi Nation that provides free, confidential advocacy services to any survivor of domestic violence or sexual assault who is Native American and living in Whatcom County; any Lummi Tribal member; anyone who lives on the Lummi Reservation; or anyone who experienced violence on the Lummi Reservation.

Northwest Indian College (NWIC)

NWIC is located in Lummi Nation and is the only accredited Tribal college serving the states of Washington, Oregon, and Idaho. NWIC offers two and four-year degrees and is designed to serve the post-secondary educational needs of Indian people living in the Pacific Northwest.

PeaceHealth St. Joseph Medical Center

PeaceHealth St. Joseph Medical Center provides emergency and specialty care to Whatcom County residents. PeaceHealth is the only hospital within Whatcom County, and the only hospital within 60 miles that provides sexual assault forensic exams. Sexual assault forensic exams are conducted through the Emergency Department and the Forensic Nurse Team works within the Emergency Department.

Sexual Assault Nurse Exam or Examiner (SANE)

The sexual assault nurse exam (sometimes referred to as the "rape kit" but known as the Forensic Exam by practitioners) is an examination of a sexual assault patient by a trained forensic examiner or Forensic Nurse. The examination includes gathering information from the patient for the medical forensic history; an examination; coordinating treatment of injuries, documentation of biological and physical findings, and collection of evidence from the patient; documentation of findings; information, treatment, and referrals for STIs, pregnancy, suicidal ideation, alcohol and substance abuse, and other non-acute medical concerns.

Western Washington University (WWU)

WWU, located in Bellingham, is one of six public universities in Washington State. In 2014, there were 15,060 students, 14,407 of whom were undergraduate students, and 764 faculty. WWU operates a University Police Department and Consultation and Sexual Assault Support Services, located within the Prevention and Wellness Services department, which provides advocacy services for students who have experienced domestic violence, dating violence, stalking, or sexual assault.

Whatcom Community College (WCC)

WCC, located in Bellingham, is an accredited two-year college serving approximately 11,000 students annually. WCC offers transfer degrees, professional-technical training programs, as well as basic education, job skills, and Community & Continuing Education classes.

Whatcom County Prosecutor's Office

The Whatcom County Prosecutor's Office is responsible for the prosecution of all felony crimes that occur within Whatcom County, as well as misdemeanor crimes that occur outside of the city limits of Bellingham.

Whatcom County Sheriff's Office (WCSO)

The Whatcom County Sheriff's Office is the county-wide law enforcement agency for Whatcom County. The WCSO is responsible for maintaining the county jail, providing security at the Whatcom County Superior Court, and serving civil processes. WCSO has primary jurisdiction for criminal investigations in the rural areas of Whatcom County.

Whatcom County Victim Witness Unit

The Victim Witness Unit is comprised of four prosecution-based advocates who provide case information, advocacy, and coordination with prosecutors for victims and witnesses involved with the criminal legal process. Prosecution-based advocates uphold the Victim Bill of Rights (RCW 7.69.030).

APPENDIX C: ALL RECOMMENDATIONS, ORGANIZED BY GAP

There are numerous recommendations for each agency; realistically, given time and resources, agencies will not be able to implement all recommendations. Agencies are encouraged to review all applicable recommendations, and prioritize implementation based on need, impact, and resources available.

| GAP I RECOMMENDATIONS | |
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| <i>There are systemic delays in processing sexual assault cases.</i> | |
| All Agencies | <ul style="list-style-type: none"> Develop protocols to diligently work to minimize delay and ensure that at every point of contact, all practitioners inform survivors of any expected timelines and potential delays and refer to community-based advocacy services. |
| DVSAS | <ul style="list-style-type: none"> Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates. Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault, and consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics. Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy. |
| Hospital | <ul style="list-style-type: none"> Research best practices in forensic nurse scheduling and protocol, consulting with the International Association of Forensic Nurses (IAFN) and/or model SANE programs in other communities. Explore ways in which the pool of forensic nurses can be expanded by looking at recruitment, eligibility guidelines for being a forensic nurse, and compensation. Consult with the International Association of Forensic Nurses (IAFN) for technical assistance on further developing and contributing resources to the forensic nurse program. Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program. Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report. |
| Law Enforcement | <ul style="list-style-type: none"> Develop procedures for timely sexual assault case processing, addressing expected |

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| | timelines for assigning cases to detectives, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed. |
| Prosecution | <ul style="list-style-type: none"> • Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to prosecutors, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed. • Develop a procedure and capabilities for electronic receiving of cases from law enforcement. • Establish a policy to oppose defense requests for continuances unless required by statute or court rule. Anticipate defense requests for discovery so documents can be provided in a timely fashion. • Set deadlines for reviewing sexual assault cases and develop procedures for regular supervisory review of pending cases to ensure that deadlines are met. |
| Additional Recommendations | <ul style="list-style-type: none"> • The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner. • Whatcom County explore increased funding for the Whatcom County Sheriff's Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner. • Whatcom County explore increased funding for the Whatcom County Prosecutor's Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner. • Whatcom County Superior Court set trial confirmation hearings for 30 days prior to trial, rather than 5 days, to give defense more time to prepare for trial and decrease delay in proceeding with trials as initially scheduled. |

| GAP II RECOMMENDATIONS | |
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| <i>Sexual assault survivors experience a lack of follow-up, communication, and engagement from responding systems.</i> | |
| DVSAS | <ul style="list-style-type: none"> • Implement an advocacy-initiated response for survivors of sexual assault, developing a procedure and timeline for follow-up, safety planning, and offering legal advocacy for all survivors who receive DVSAS support during a sexual assault exam, a call to the helpline, a walk-in at the downtown office, or reporting to law enforcement or other systems. • Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates. • Expand the advocacy Counselor Core training program to include comprehensive |

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| | <p>training on criminal legal responses to sexual assault, and should consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics.</p> <ul style="list-style-type: none"> • Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy. • Establish protocol for offering to refer survivors to culturally specific advocacy services whenever possible, including Lummi Victims of Crime and NW Network of Bi, Trans, Lesbian and Gay Survivors of Abuse. Increase collaboration with advocates from partner advocacy agencies to increase consistency and accuracy in messaging and information for survivors, and to ensure that survivors do not feel “passed off” by referrals. |
| Hospital | <ul style="list-style-type: none"> • Develop procedure for follow-up with all survivors who receive sexual assault exams. Follow-up should reiterate any next steps in medical care that were discussed, offer referrals to community-based advocacy services, and provide options for reporting, if desired by the survivor. • Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report. • Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program. • Establish protocol for referring survivors to culturally specific advocacy services whenever possible. When referring survivors to community-based advocacy, and when inviting advocates to provide support during SANE exams, say to the survivor: “I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?” |
| Law Enforcement | <ul style="list-style-type: none"> • Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include notifications about case updates and delays, case decision points, timing of suspect interviews (particularly if there is a safety concern), and referrals of cases to prosecution. Follow-up should also include referring survivors to community-based advocacy services for information, advocacy, and support. |
| Prosecution | <ul style="list-style-type: none"> • Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include seeking survivor input on their justice needs and hopes for their cases; notifications of receiving case referrals from law enforcement, case updates and delays, case decision points, reviews of prosecution timelines and processes, and case declinations, dismissals, closures, or no-actions; timely preparation with survivors for impact statements; face-to-face meetings with survivors upon receiving cases; and providing referrals to community-based advocacy services for information, advocacy, and support. |

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| DV Commission | <ul style="list-style-type: none"> Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases. Facilitate the SART to develop a “road map” for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines; who to call with questions; and survivor rights. |
| Additional Recommendation | <ul style="list-style-type: none"> The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner. Whatcom County explore increased funding for the Whatcom County Sheriff’s Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner. Whatcom County explore increased funding for the Whatcom County Prosecutor’s Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner. |

| GAP III RECOMMENDATIONS | |
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| <i>The quality of institutional responses to reports of sexual assault is significantly influenced by perceptions of survivor credibility – often to the exclusion of investigating suspect behavior and credibility.</i> | |
| All Agencies | <ul style="list-style-type: none"> Encourage practitioners throughout systems to take the online Implicit Association Test, which is publicly available on a variety of topics, including race and gender. Encourage practitioners to attend Lummi Victims of Crime’s Annual Domestic Violence and Sexual Assault Conference each October, a local and culturally specific training that offers opportunities for increasing knowledge, decreasing bias, and developing or strengthening partnerships. Encourage practitioners to participate in Lummi Victims of Crime’s annual walk to honor Missing and Murdered Indigenous Women to show solidarity and support. |
| Law Enforcement | <ul style="list-style-type: none"> Implement procedures to assign all reported sexual assault cases to detectives and refer all sexual assault cases to prosecution. Upon prosecutorial review, detectives should complete any follow-up requested by the prosecutor to strengthen the case. Implement report writing guidance for investigators and reviewing sergeants so that reports contain appropriate use of language and components based on best practices. Implement best practices in report writing to remove language of consensual sex in sexual assault cases and to remove opinion-based statements. Utilize EVAWI webinar on Effective Report Writing: Using the Language of Non-Consensual Sex and IACP Sexual Assault Incident Reports: Investigative Strategies resources for guidance. |

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| | <ul style="list-style-type: none"> • Implement utilization of EVAWI and DOJ resources to reduce gender bias in sexual assault cases: <ul style="list-style-type: none"> ○ <i>Reducing Gender Bias in Sexual Assault Response and Investigation</i> ○ <i>Uncovering Sexual Assault in Domestic Violence Calls: An Improved Law Enforcement Response to Assess for Sexual Violence, Build an Evidence Based Case and Reduce Gender Bias.</i> ○ <i>Identifying and Preventing Gender Bias in Law Enforcement Response To Sexual Assault and Domestic Violence.</i> • Reduce discretion that leads to gender bias by implementing tools from the International Association for Chiefs of Police (IACP), including: <ul style="list-style-type: none"> ○ <i>Sexual Assault Incident Reports: Investigative Strategies</i> ○ <i>Model Policy on Investigating Sexual Assaults</i> ○ <i>Supplemental Report Form for Sexual Assault</i> ○ <i>Sexual Assault Report Review Checklist</i> ○ <i>Bringing Sexual Assault Offenders to Justice</i> ○ <i>Concepts and Issues Paper on Investigating Sexual Assaults</i> |
| Prosecution | <ul style="list-style-type: none"> • Explore the possibility of creating a small “unit” of prosecutors specialized in adult (16+) sexual assault cases. • Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference: <ul style="list-style-type: none"> ○ <i>Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection</i> ○ <i>Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions</i> ○ <i>Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias</i> ○ <i>Voir Dire and Prosecution Tips for Sexual Assault</i> ○ <i>Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups</i> • Clarify and elevate the role of the Whatcom County Prosecutor’s Office in its responsibility to survivors and the public to seek justice, not only in cases they are sure they can win: <i>“The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict.”</i> –American Bar Association • Establish protocol to flag concerns about potential lines of questioning about survivor history as a pre-trial motion, so the judge has the opportunity to rule before the trial. • Implement procedures requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy prosecutor whenever possible, before officially declining, closing, dismissing, or no-actioning cases, and provide oversight to ensure the survivor is notified in a timely and trauma-informed manner. • Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if there are such opportunities, to request that law enforcement seek and provide that evidence. |

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| | <ul style="list-style-type: none"> • Encourage all prosecutors to utilize the following resources: <ul style="list-style-type: none"> ○ One-to-one case consultation, technical assistance, and mentoring from attorney advisors at AEquitas Prosecutors Resource Center on Violence Against Women ○ National Sexual Assault Investigation and Prosecution Best Practice Guide, a white paper published by the National District Attorneys Association in January 2018 ○ <i>Strategies: The Prosecutors' Newsletter on Violence Against Women, Beyond Conviction Rates</i> (article or webinar), <i>Expert Testimony on Victim Behavior</i> (article), <i>Model Response to Sexual Violence for Prosecutors</i> (article), and <i>Overcoming the Consent Defense</i> (article), all resources from AEquitas. |
| DV Commission | <ul style="list-style-type: none"> • Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases. • Facilitate the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases. • Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors. • Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including: <ul style="list-style-type: none"> ○ utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws ○ uncovering and overcoming gender and racial bias through jury selection and education ○ identifying and using expert witnesses ○ trauma-informed interviewing • Offer increased learning opportunities for responding systems and for Commission members and their agencies to explore topics of implicit gender and racial bias as they relate to sexual assault, as well as additional learning on sexual assault myths and misconceptions and how they negatively impact survivor safety and justice and offender accountability. • Develop and implement a messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault. • Facilitate conversations with the SART and other multi-disciplinary groups to develop a set of values to guide practitioners to talk about sexual assault, cases, and survivors in ways that dispels societal myths and misconceptions. • Promote and support Lummi Victims of Crime's Annual Domestic Violence and Sexual Assault Conference. |

| GAP IV RECOMMENDATIONS | |
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| <i>There is a lack of criminal accountability for reported sexual assault offenders in our community, which includes and may enable serial offenders.</i> | |
| Hospital | <ul style="list-style-type: none"> • Explore ways in which the pool of forensic nurses can be expanded by looking at recruitment, eligibility guidelines for being a forensic nurse, and compensation. Consult with the International Association of Forensic Nurses (IAFN) for technical assistance on further developing and contributing resources to the forensic nurse program. • Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program. |
| Law Enforcement | <ul style="list-style-type: none"> • Re-visit cross-deputizing Lummi Law & Order officers to close loopholes in accountability for non-Tribal members who commit sexual assault on the reservation. • Develop a screening procedure, database, or software that can be used to easily and routinely match offenders in current reports with past cases across law enforcement jurisdictions, initiating the process of identifying serial offenders. • Research and implement applicable elements of the International Association of Chiefs of Police (IACP) resources: <ul style="list-style-type: none"> ○ Sexual Assault Incident Reports: Investigative Strategies ○ Model Policy on Investigating Sexual Assaults ○ Supplemental Report Form for Sexual Assault ○ Sexual Assault Report Review Checklist ○ Bringing Sexual Assault Offenders to Justice ○ Concepts and Issues Paper on Investigating Sexual Assaults • Develop investigative protocols for sexual assault that include steps for identifying all relevant, potential witnesses and evidence, including electronic evidence. Utilize the following resources for guidance: Digital Evidence: Successfully Identifying and Acquiring Electronic Evidence to Combat the CSI Effect and Sexual Assault Incident Reports: Investigative Strategies. • Implement procedures to assign all reported sexual assault cases to detectives and refer all sexual assault cases to prosecution. Upon prosecutorial review, detectives should complete any follow-up requested by the prosecutor to strengthen the case. • Implement protocol to request that all sexual assault kits be tested and processed to support identification of serial sexual assault offenders. |
| Prosecution | <ul style="list-style-type: none"> • Re-visit cross-deputizing Lummi Law & Order officers to close loopholes in accountability for non-Tribal members who commit sexual assault on the reservation. • Explore the possibility of creating a small “unit” of prosecutors specialized in adult (16+) sexual assault cases. • Implement procedures requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy prosecutor whenever possible, before officially declining, |

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| | <p>closing, dismissing, or no-actioning cases, and provide oversight to ensure the survivor is notified in a timely and trauma-informed manner.</p> <ul style="list-style-type: none"> • Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if there are such opportunities, to request that law enforcement seek and provide that evidence. • Implement procedure to regularly identify common themes and barriers that factor into decisions to decline, close, dismiss, or no-action cases, and collaborate with the DV Commission, technical assistance providers, and AEquitas to improve institutional responses and overcome themes that are barriers to justice. • Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference: <ul style="list-style-type: none"> ○ Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection ○ Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions ○ Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias ○ Voir Dire and Prosecution Tips for Sexual Assault ○ Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups • Encourage all prosecutors to utilize the following resources: <ul style="list-style-type: none"> ○ One-to-one case consultation, technical assistance, and mentoring from attorney advisors at AEquitas Prosecutors Resource Center on Violence Against Women ○ National Sexual Assault Investigation and Prosecution Best Practice Guide, a white paper published by the National District Attorneys Association in January 2018 ○ <i>Strategies: The Prosecutors' Newsletter on Violence Against Women, Beyond Conviction Rates</i> (article or webinar), <i>Expert Testimony on Victim Behavior</i> (article), <i>Model Response to Sexual Violence for Prosecutors</i> (article), and <i>Overcoming the Consent Defense</i> (article), all resources from AEquitas. |
| DV Commission | <ul style="list-style-type: none"> • Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to consult on and strengthen investigations and prosecutions in adult sexual assault cases. • Facilitate the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases. • Facilitate the SART to research and develop processes, including non-investigative or an updated anonymous reporting system, which identify serial offenders and provides a way to notify survivors about serial offenders if desired. • Develop and maintain a list of local and regional expert witnesses, including particular |

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| | <p>areas of expertise, as a resource for prosecutors.</p> <ul style="list-style-type: none"> • Seek training for Commission members and partner agencies on the Violence Against Women Act (VAWA) and its implications for Tribal sovereignty and jurisdictions, justice for Native survivors, and accountability for offenders. • Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including: <ul style="list-style-type: none"> ○ utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws ○ uncovering and overcoming gender bias through jury selection and education ○ identifying and using expert witnesses ○ trauma-informed interviewing |
| Additional Recommendation | <ul style="list-style-type: none"> • The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner. • Whatcom County explore increased funding for the Whatcom County Sheriff's Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner. • Whatcom County explore increased funding for the Whatcom County Prosecutor's Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner. |

| GAP V RECOMMENDATIONS | |
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| <i>Across systems, there is lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement.</i> | |
| All Agencies | <ul style="list-style-type: none"> • Establish protocol for practitioners to begin their interactions with survivors by using statements of support or validation, including statements such as "I'm sorry this happened to you," "I believe you," or "I'm sorry to meet under these circumstances." • Establish protocol for practitioners to explain to survivors the "why" behind the questions. For example: <ul style="list-style-type: none"> ○ "I am asking you how much you drank because we may be able to prove that you were too intoxicated to consent." ○ "I am asking you what you were wearing so I can determine if there is clothing I should be collecting as evidence." ○ "I am asking if you had other sexual partners within the last few days to see if we need to make sure that we identify the right DNA." • Encourage practitioners to view the following resources and consider how they can meet the needs of survivors and overcome barriers to justice for survivors and accountability for offenders in their systems: <ul style="list-style-type: none"> ○ Book: Missoula, By Jon Krakauer ○ Podcast: Anatomy of a Doubt, by This American Life ○ RCW: Victim Bill of Rights |

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| | <ul style="list-style-type: none"> • Establish procedures to address how practitioners are supported in responding to reports of sexual assault, including processes for debriefing and addressing burn-out and vicarious trauma. • Seek and implement increased training and partnership opportunities for practitioners serving communities that are historically marginalized and underrepresented to address unique needs and barriers, including people who are LGBTQ+, people who are Deaf, and people of color. Establish protocol to consult with and refer to culturally-specific advocacy agencies whenever possible. • Establish protocol for practitioners to routinely refer to sexual assault advocates for case consultation, resources, and information regarding sexual assault, and invite advocates to support survivors during case processes. • Assess agency's language access policies to ensure safe, meaningful language access for survivors of sexual assault, consulting with the Asian Pacific Institute for Gender Based Violence for recommended practices and tools. • Encourage all practitioners to review data collected by the DV Commission on the impact of federal immigration policy on reporting by survivors of domestic and sexual violence, and implementing the accompanying recommendations to increase safety and access. • Explore the implementation of a system to disaggregate data collection systems to be able to identify race-specific data on reports of sexual assault. |
| DVSAS | <ul style="list-style-type: none"> • Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates. • Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault, and consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics. • Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy. • Create shadow shifts for volunteers for their first responses to SANE exams and implement peer debriefings and reviews of support provided during SANE exams. • Implement a method for survivors to connect directly with advocates via text or online. • Explore strategies to overcome the impact of calling an answering service after hours, including creating and marketing videos and other materials that demonstrate the process of calling the helpline after hours, and increasing trauma-informed training for the answering service. |

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| | <ul style="list-style-type: none"> Establish protocol for offering to refer survivors to culturally specific advocacy services whenever possible, including Lummi Victims of Crime and NW Network of Bi, Trans, Lesbian and Gay Survivors of Abuse. Increase collaboration with advocates from partner advocacy agencies to increase consistency and accuracy in messaging and information for survivors, and to ensure that survivors do not feel “passed off” by referrals. Certify an advocate to engage in accessing legal remedies for immigrant victims: http://cliniclegal.org/accreditation |
| Hospital | <ul style="list-style-type: none"> Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program. Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report. Establish protocol that allows survivors to decide if they want to see an advocate from LVOC or DVSAS. When calling community-based advocates to provide support for survivors during forensic exams, say to the survivor: “I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?” |
| Law Enforcement | <ul style="list-style-type: none"> Sign U-Visa applications for survivors of sexual assault who are undocumented immigrants and participating in the criminal legal process, per House Bill 1022 requirements. Refer survivors to civil immigration attorneys and advocates if there are concerns about potential negative implications of a U-Visa application for a survivor’s continued presence in the U.S. Institutionalize trauma-informed interview training and techniques – such as Forensic Experiential Trauma Interviewing – as a necessary skill for all officers responding to sexual assault. Utilize EVAWI resource for guidance: Trauma Informed Interviewing - Turning Understanding into Outcomes. Require all officers to view the YouTube Video: <i>Sexual Assault: A Trauma-Informed Approach to Law Enforcement First Response</i>, part I and part II as part of annual training. Implement protocol to standardize recording all survivor interviews, whenever possible and consented to, to ensure the survivor does not have to re-tell the events. Survivors should not be asked to prepare handwritten statements. Implement protocols for interviewing survivors of sexual assault which are parallel to the recommended protocol for interviewing officers involved in critical incidents. For example, officers should conduct only brief interviews with survivors immediately after an incident; in-depth interviews with survivors should take place after a few sleep cycles. Implement protocol to standardize officer debriefing after sexual assault calls, as they do after major incidents such as homicide, to decrease burnout and impact of vicarious trauma. |

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| | <ul style="list-style-type: none"> • Implement utilization of EVAWI and DOJ resources to reduce gender bias in sexual assault cases: <ul style="list-style-type: none"> ○ <i>Reducing Gender Bias in Sexual Assault Response and Investigation</i> ○ <i>Uncovering Sexual Assault in Domestic Violence Calls: An Improved Law Enforcement Response to Assess for Sexual Violence, Build an Evidence Based Case and Reduce Gender Bias.</i> ○ <i>Identifying and Preventing Gender Bias in Law Enforcement Response To Sexual Assault and Domestic Violence.</i> • Reduce discretion that leads to gender bias by implementing tools from the International Association for Chiefs of Police (IACP), including: <ul style="list-style-type: none"> ○ <i>Sexual Assault Incident Reports: Investigative Strategies</i> ○ <i>Model Policy on Investigating Sexual Assaults</i> ○ <i>Supplemental Report Form for Sexual Assault</i> ○ <i>Sexual Assault Report Review Checklist</i> ○ <i>Bringing Sexual Assault Offenders to Justice</i> ○ <i>Concepts and Issues Paper on Investigating Sexual Assaults</i> |
| Prosecution | <ul style="list-style-type: none"> • Sign U-Visa applications for survivors of sexual assault who are undocumented immigrants and participating in the criminal legal process, per <u>House Bill 1022 requirements</u>. Refer survivors to civil immigration attorneys and advocates if there are concerns about potential negative implications of a U-Visa application for a survivor's continued presence in the U.S. • Explore the possibility of creating a small "unit" of prosecutors specialized in adult (16+) sexual assault cases. • Develop protocol for standardized training for all Prosecution-Based Advocates in adult sexual assault advocacy. All Prosecution-Based Advocates should be experts in adult sexual assault advocacy. • Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference: <ul style="list-style-type: none"> ○ <i>Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection</i> ○ <i>Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions</i> ○ <i>Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias</i> ○ <i>Voir Dire and Prosecution Tips for Sexual Assault</i> ○ <i>Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups</i> • Require all prosecutors to review the video <i>Integrating a Trauma-Informed Response</i> from AEquitas. • Develop protocol for preparing survivors for defense interviews, ensuring survivors are aware of their rights, explaining the limited role of the prosecutor, and notifying survivors that they can have their own attorney or advocate present. |

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| DV Commission | <ul style="list-style-type: none"> • Develop and implement a messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault. • Lead the Sexual Assault Response Team (as recommended in this report) to develop a “road map” for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines, including who to call with questions and survivor rights. • Promote and support Lummi Victims of Crime’s Annual Domestic Violence and Sexual Assault Conference. • Explore and research the development of an equity and diversity advisory board for receiving guidance for Commission-led projects, and for members and their agencies to receive guidance on their work, with special attention given to the ways that Native partners are equitably represented in grant and project-development phases. • Offer increased learning opportunities for responding systems and for Commission members and their agencies to explore topics of implicit bias as they relate to sexual assault, such as a workshop from the Seattle-based People’s Institute for Undoing Racism or from Race Forward’s Building Racial Equity program. • Collaborate with Lummi Victims of Crime to collect and highlight data about local missing and murdered Indigenous women. • Support systems in assessing language access practices and in implementing recommendations from the Asian Pacific Institute for Gender Based Violence or other technical assistance providers to implement meaningful language access opportunities. • Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors. • Facilitate the SART to explore the possibility of joint interviewing of adult sexual assault survivors with law enforcement, noting EVAWI’s Best Practice Recommendations for Joint Interviewing. • Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including: <ul style="list-style-type: none"> ○ utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws ○ uncovering and overcoming gender bias through jury selection and education ○ identifying and using expert witnesses ○ trauma-informed interviewing • Explore methods for increasing opportunities for survivor input and feedback on strengths and gaps in the systems response, such as creating victim input panels, conducting on-going survivor interviews and focus groups, and/or creating a database for survivor input. • Facilitate the SART team to develop protocols for a coordinated initial response for survivors by forensic nurses, law enforcement, and advocates, to reduce the number of times the survivor has to tell their story. |
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APPENDIX D: ALL RECOMMENDATIONS, ORGANIZED BY DISCIPLINE

There are numerous recommendations for each agency; realistically, given time and resources, agencies will not be able to implement all recommendations. Agencies are encouraged to review all applicable recommendations, and prioritize implementation based on need, impact, and resources available.

RECOMMENDATIONS FOR ALL AGENCIES

- Encourage practitioners throughout systems to take the online [Implicit Association Test](#), which is publicly available on a variety of topics, including race and gender.
- Establish protocol for practitioners to routinely refer to sexual assault advocates for case consultation, resources, and information regarding sexual assault, and invite advocates to support survivors during case processes.
- Encourage practitioners to attend Lummi Victims of Crime's Annual Domestic Violence and Sexual Assault Conference each October, a local and culturally specific training that offers opportunities for increasing knowledge, decreasing bias, and developing or strengthening partnerships.
- Encourage practitioners to participate in Lummi Victims of Crime's annual walk to honor Missing and Murdered Indigenous Women to show solidarity and support.
- Establish protocol for referring survivors to culturally specific advocacy services whenever possible. When referring survivors to community-based advocacy, and when inviting advocates to provide support (e.g. during SANE exams, on school campus, for law enforcement or prosecution interviews), say to the survivor: "I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?"
- Assess agency's language access policies to ensure safe, meaningful language access for survivors of sexual assault, consulting with the [Asian Pacific Institute for Gender Based Violence](#) for recommended practices and tools.
- Encourage all practitioners to review data collected by the DV Commission on the impact of federal immigration policy on reporting by survivors of domestic and sexual violence, and implementing the accompanying recommendations to increase safety and access.
- Seek and implement increased training and partnership opportunities for practitioners serving communities that are historically marginalized and underrepresented to address unique needs and barriers, including people who are LGBTQ+, people who are Deaf, and people of color. Establish protocol to consult with and refer to culturally-specific advocacy agencies whenever possible.
- Develop protocols to diligently work to minimize delay and ensure that at every point of contact, all practitioners inform survivors of any expected timelines and potential delays and refer to community-based advocacy services.

- Establish protocol for practitioners to begin their interactions with survivors by using statements of support or validation, including statements such as “I’m sorry this happened to you,” “I believe you,” or “I’m sorry to meet under these circumstances.”
- Establish protocol for practitioners to explain to survivors the “why” behind the questions. For example:
 - “I am asking you how much you drank because we may be able to prove that you were too intoxicated to consent.”
 - “I am asking you what you were wearing so I can determine if there is clothing I should be collecting as evidence.”
 - “I am asking if you had other sexual partners within the last few days to see if we need to make sure that we identify the right DNA.”
- Encourage practitioners to view the following resources and consider how they can meet the needs of survivors and overcome barriers to justice for survivors and accountability for offenders in their systems:
 - Book: [Missoula, By Jon Krakauer](#)
 - Podcast: [Anatomy of a Doubt, by This American Life](#)
 - [RCW: Victim Bill of Rights](#)
- Establish procedures to address how practitioners are supported in responding to reports of sexual assault, including processes for debriefing and addressing burn-out and vicarious trauma.
- Explore the implementation of a system to disaggregate data collection systems to be able to identify race-specific data on reports of sexual assault.

RECOMMENDATIONS FOR DVSAS

- Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSAS staff and volunteer advocates.
- Certify an advocate to engage in accessing legal remedies for immigrant victims:
<http://cliniclegal.org/accreditation>
- Establish protocol for offering to refer survivors to culturally specific advocacy services whenever possible, including Lummi Victims of Crime and [NW Network of Bi, Trans, Lesbian and Gay Survivors of Abuse](#). Increase collaboration with advocates from partner advocacy agencies to increase consistency and accuracy in messaging and information for survivors, and to ensure that survivors do not feel “passed off” by referrals.
- Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault, and consider utilizing local representatives from law enforcement, prosecution, and the hospital for facilitation of these topics.
- Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy.
- Implement an advocacy-initiated response for survivors of sexual assault, developing a procedure and timeline for follow-up, safety planning, and offering legal advocacy for all survivors who receive DVSAS support during a sexual assault exam, a call to the helpline, a walk-in at the downtown office, or reporting to law enforcement or other systems.
- Create shadow shifts for volunteers for their first responses to SANE exams and implement peer debriefings and reviews of support provided during SANE exams.
- Implement a method for survivors to connect directly with advocates via text or online.
- Explore strategies to overcome the impact of calling an answering service after hours, including creating and marketing videos and other materials that demonstrate the process of calling the helpline after hours, and increasing trauma-informed training for the answering service.

RECOMMENDATIONS FOR PEACEHEALTH ST. JOSEPH MEDICAL CENTER

- Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program.
- Research best practices in forensic nurse scheduling and protocol, consulting with the [International Association of Forensic Nurses \(IAFN\)](#) and/or model SANE programs in other communities.
- Explore ways in which the pool of forensic nurses can be expanded by looking at recruitment, eligibility guidelines for being a forensic nurse, and compensation. Consult with the [International Association of Forensic Nurses \(IAFN\)](#) for technical assistance on further developing and contributing resources to the forensic nurse program.
- Research and develop a 24-hour full-service forensic nursing department to provide increased accessibility, safety, and privacy for survivors. The forensic department should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.
- Develop procedure for follow-up with all survivors who receive sexual assault exams. Follow-up should reiterate any next steps in medical care that were discussed, offer referrals to community-based advocacy services, and provide options for reporting, if desired by the survivor.
- Establish protocol that allows survivors to decide if they want to see an advocate from LVOC or DVSAS. When calling community-based advocates to provide support for survivors during forensic exams, say to the survivor: "I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?"

RECOMMENDATIONS FOR BELLINGHAM POLICE DEPARTMENT AND WHATCOM COUNTY SHERIFF'S OFFICE

- Reduce discretion that leads to gender bias by implementing tools from the International Association for Chiefs of Police (IACP), including:
 - [*Sexual Assault Incident Reports: Investigative Strategies*](#)
 - [*Model Policy on Investigating Sexual Assaults*](#)
 - [*Supplemental Report Form for Sexual Assault*](#)
 - [*Sexual Assault Report Review Checklist*](#)
 - [*Bringing Sexual Assault Offenders to Justice*](#)
 - [*Concepts and Issues Paper on Investigating Sexual Assaults*](#)
- Implement utilization of EVAWI and DOJ resources to reduce gender bias in sexual assault cases:
 - [*Reducing Gender Bias in Sexual Assault Response and Investigation*](#)
 - [*Uncovering Sexual Assault in Domestic Violence Calls: An Improved Law Enforcement Response to Assess for Sexual Violence, Build an Evidence Based Case and Reduce Gender Bias*](#)
 - [*Identifying and Preventing Gender Bias in Law Enforcement Response To Sexual Assault and Domestic Violence.*](#)
- Implement procedures to assign all reported sexual assault cases to detectives and refer all sexual assault cases to prosecution. Upon prosecutorial review, detectives should complete any follow-up requested by the prosecutor to strengthen the case.
- Re-visit cross-deputizing Lummi Law & Order officers to close loopholes in accountability for non-Tribal members who commit sexual assault on the reservation.
- Sign U-Visa applications for survivors of sexual assault who are undocumented immigrants and participating in the criminal legal process, per [House Bill 1022 requirements](#). Refer survivors to civil immigration attorneys and advocates if there are concerns about potential negative implications of a U-Visa application for a survivor's continued presence in the U.S.
- Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to detectives, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed.
- Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include notifications about case updates and delays, case decision points, timing of suspect interviews (particularly if there is a safety concern), and referrals of cases to prosecution. Follow-up should also include referring survivors to community-based advocacy services for information, advocacy, and support.
- Implement report writing guidance for investigators and reviewing sergeants so that reports contain appropriate use of language and components based on best practices. Implement best practices in report writing to remove language of consensual sex in sexual assault cases and to remove opinion-based statements. Utilize EVAWI webinar on [Effective Report Writing: Using the Language of Non-](#)

[Consensual Sex](#) and IACP [Sexual Assault Incident Reports: Investigative Strategies](#) resources for guidance.

- Develop a screening procedure, database, or software that can be used to easily and routinely match offenders in current reports with past cases across law enforcement jurisdictions, initiating the process of identifying serial offenders.
- Develop investigative protocols for sexual assault that include steps for identifying all relevant, potential witnesses and evidence, including electronic evidence. Utilize the following resources for guidance: [Digital Evidence: Successfully Identifying and Acquiring Electronic Evidence to Combat the CSI Effect](#) and [Sexual Assault Incident Reports: Investigative Strategies](#).
- Implement protocol to request that all sexual assault kits be tested and processed to support identification of serial sexual assault offenders.
- Institutionalize trauma-informed interview training and techniques – such as Forensic Experiential Trauma Interviewing – as a necessary skill for all officers responding to sexual assault. Utilize EVAWI resource for guidance: [Trauma Informed Interviewing - Turning Understanding into Outcomes](#). Require all officers to view the YouTube Video: *Sexual Assault: A Trauma-Informed Approach to Law Enforcement First Response*, [part I](#) and [part II](#) as part of annual training.
- Implement protocol to standardize recording all survivor interviews, whenever possible and consented to, to ensure the survivor does not have to re-tell the events. Survivors should not be asked to prepare handwritten statements.
- Implement protocols for interviewing survivors of sexual assault which are parallel to the recommended protocol for interviewing officers involved in critical incidents. For example, officers should conduct only brief interviews with survivors immediately after an incident; in-depth interviews with survivors should take place after a few sleep cycles.
- Implement protocol to standardize officer debriefing after sexual assault calls, as they do after major incidents such as homicide, to decrease burnout and impact of vicarious trauma.

RECOMMENDATIONS FOR WHATCOM COUNTY PROSECUTOR'S OFFICE

- Implement procedures requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy prosecutor whenever possible, before officially declining, closing, dismissing, or no-actioning cases, and provide oversight to ensure the survivor is notified in a timely and trauma-informed manner.
- Implement procedure to regularly identify common themes and barriers that factor into decisions to decline, close, dismiss, or no-action cases, and collaborate with the DV Commission, technical assistance providers, and AEquitas to improve institutional responses and overcome themes that are barriers to justice.
- Sign U-Visa applications for survivors of sexual assault who are undocumented immigrants and participating in the criminal legal process, per [House Bill 1022 requirements](#). Refer survivors to civil immigration attorneys and advocates if there are concerns about potential negative implications of a U-Visa application for a survivor's continued presence in the U.S.
- Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to prosecutors, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed
- Develop a procedure and capabilities for electronic receiving of cases from law enforcement.
- Establish a policy to oppose defense requests for continuances unless required by statute or court rule. Anticipate defense requests for discovery so documents can be provided in a timely fashion.
- Set deadlines for reviewing sexual assault cases and develop procedures for regular supervisory review of pending cases to ensure that deadlines are met.
- Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include seeking survivor input on their justice needs and hopes for their cases; notifications of receiving case referrals from law enforcement, case updates and delays, case decision points, reviews of prosecution timelines and processes, and case declinations, dismissals, closures, or no-actions; timely preparation with survivors for impact statements; face-to-face meetings with survivors upon receiving cases; and providing referrals to community-based advocacy services for information, advocacy, and support.
- Explore the possibility of creating a small "unit" of prosecutors specialized in adult (16+) sexual assault cases.
- Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, misconceptions about survivor credibility, suspect behavior and grooming, and other sexual assault dynamics. Utilize the following resources for guidance and reference:
 - [Reduce Attrition Rates of Sexual Assault Through Proper Charging Decisions and Effective Jury Selection](#)

- [Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions](#)
- [Educating Juries in Sexual Assault Cases: Using Voir Dire to Eliminate Juror Bias](#)
- [Voir Dire and Prosecution Tips for Sexual Assault](#)
- [Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups](#)
- Clarify and elevate the role of the Whatcom County Prosecutor's Office in its responsibility to survivors and the public to seek justice, not only in cases they are sure they can win: *"The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict."* – American Bar Association
- Re-visit cross-deputizing Lummi Law & Order officers to close loopholes in accountability for non-Tribal members who commit sexual assault on the reservation.
- Establish protocol to flag concerns about potential lines of questioning about survivor history as a pre-trial motion, so the judge has the opportunity to rule before the trial.
- Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if there are such opportunities, to request that law enforcement seek and provide that evidence.
- Encourage all prosecutors to utilize the following resources:
 - One-to-one case consultation, technical assistance, and mentoring from attorney advisors at [AEquitas Prosecutors Resource Center on Violence Against Women](#)
 - [National Sexual Assault Investigation and Prosecution Best Practice Guide](#), a white paper published by the National District Attorneys Association in January 2018
 - *Strategies: The Prosecutors' Newsletter on Violence Against Women, Beyond Conviction Rates* (article or webinar), *Expert Testimony on Victim Behavior* (article), *Model Response to Sexual Violence for Prosecutors* (article), and *Overcoming the Consent Defense* (article), [all resources from AEquitas](#).
- Develop protocol for standardized training for all Prosecution-Based Advocates in adult sexual assault advocacy. All Prosecution-Based Advocates should be experts in adult sexual assault advocacy.
- Require all prosecutors to review the video [Integrating a Trauma-Informed Response](#) from AEquitas.
- Develop protocol for preparing survivors for defense interviews, ensuring survivors are aware of their rights, explaining the limited role of the prosecutor, and notifying survivors that they can have their own attorney or advocate present.

RECOMMENDATIONS FOR DV COMMISSION

- Facilitate the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases.
- Facilitate conversations with the SART and other multi-disciplinary groups to develop a set of values to guide practitioners to talk about sexual assault, cases, and survivors in ways that dispels societal myths and misconceptions.
- Facilitate the SART to develop a “road map” for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines; who to call with questions; and survivor rights.
- Facilitate the SART team to develop protocols for a coordinated initial response for survivors by forensic nurses, law enforcement, and advocates, to reduce the number of times the survivor has to tell their story.
- Facilitate the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases.
- Facilitate the SART to research and develop processes, including non-investigative or an updated anonymous reporting system, which identify serial offenders and provides a way to notify survivors about serial offenders if desired.
- Facilitate the SART to explore the possibility of joint interviewing of adult sexual assault survivors with law enforcement, noting EVAWI’s [Best Practice Recommendations for Joint Interviewing](#).
- Offer increased learning opportunities for responding systems and for Commission members and their agencies to explore topics of implicit gender bias as they relate to sexual assault, as well as additional learning on sexual assault myths and misconceptions and how they negatively impact survivor safety and justice and offender accountability.
- Develop and implement a messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault.
- Explore and research the development of an equity and diversity advisory board for receiving guidance for Commission-led projects, and for members and their agencies to receive guidance on their work, with special attention given to the ways that Native partners are equitably represented in grant and project-development phases.
- Seek training for Commission members and partner agencies on the Violence Against Women Act (VAWA) and its implications for Tribal sovereignty and jurisdictions and justice for Native survivors.

- Promote and support Lummi Victims of Crime’s Annual Domestic Violence and Sexual Assault Conference.
- Collaborate with Lummi Victims of Crime to collect and highlight data about local missing and murdered Indigenous women.
- Support systems in assessing language access practices and in implementing recommendations from the [Asian Pacific Institute for Gender Based Violence](#) or other technical assistance providers to implement meaningful language access opportunities.
- Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.
- Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies, on topics including:
 - utilizing electronic evidence and applicable search warrants, provided by trainers who can provide expertise based on Washington state laws
 - uncovering and overcoming gender and racial bias through jury selection and education
 - identifying and using expert witnesses
 - trauma-informed interviewing
- Explore methods for increasing opportunities for survivor input and feedback on strengths and gaps in the systems response, such as creating victim input panels, conducting on-going survivor interviews and focus groups, and/or creating a database for survivor input.

ADDITIONAL RECOMMENDATIONS

- The City of Bellingham explore increased funding for the Bellingham Police Department Family Crimes Unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.
- Whatcom County explore increased funding for the Whatcom County Sheriff’s Office detective unit, to decrease detective caseload and increase capacity to investigate sexual assault in a timely and thorough manner.
- Whatcom County explore increased funding for the Whatcom County Prosecutor’s Office, to decrease prosecutor caseload and increase capacity to prosecute sexual assault cases in a timely and thorough manner.
- Whatcom County Superior Court set trial confirmation hearings for 30 days prior to trial, rather than 5 days, to give defense more time to prepare for trial and decrease delay in proceeding with trials as initially scheduled.

| Identified Gaps | Recommendations | Audit Trails Identified | Agencies to be Involved |
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| <i>Gap 1: There are systemic delays in processing sexual assault cases.</i> | | | |
| There are systemic delays in processing sexual assault cases. | Develop protocol to ensure that at every point of contact with survivors, all practitioners inform survivors of any expected delays and refer to community-based advocacy services. | <ul style="list-style-type: none"> Administrative Practices Concepts and Theories | DVSA PeaceHealth St. Joseph Hospital Bellingham Police Department Whatcom Co. Sheriff's Office Whatcom Co. Prosecutor's Office DV Commission |
| <p>Case reviews demonstrated that delays can occur in many points throughout investigations, including assigning cases to detectives, investigations being delayed because of detective caseloads; detectives, or supervisors, being on vacation; detectives contacting survivors for follow-up interviews; witnesses being identified and interviewed.</p> <p>Systems do not consistently refer survivors to community-based advocacy services for ongoing support between case updates.</p> | <p>Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system, act as a liaison between survivors and responding systems, and serve as an in-house expert on criminal legal responses to sexual assault for both survivors and DVSA staff and volunteer advocates.</p> <p>Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault.</p> <p>Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy.</p> | <ul style="list-style-type: none"> Administrative Practices Resources Linkages Education and Training | DVSA |
| Case reviews demonstrated that delays can occur in many points throughout investigations, including assigning cases to detectives, investigations being delayed because of detective caseloads; detectives, or supervisors, being on vacation; detectives contacting survivors for follow-up interviews; witnesses being identified and interviewed. | Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to detectives, detectives contacting survivors for follow-up interviews and case status updates, and witnesses being identified and interviewed. | <ul style="list-style-type: none"> Administrative Practices Accountability | Bellingham Police Department Whatcom Co. Sheriff's Office |

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| <p>In an interview, a prosecutor shared that they do not have time to prosecute cases effectively and expeditiously because of case load.</p> <p>In several prosecution case files reviewed, delay was noted as a contributing factor to their decision not to charge the case.</p> <p>In interviews, several law enforcement practitioners noted that detectives must print out and hand-deliver their cases when referring to prosecution; electronic sharing of cases is not currently in place. This takes valuable time from detectives and supervisors.</p> <p>In stakeholder interviews, prosecutors, defense attorneys, and judicial officers all shared that delay is a deliberate tactic used by defense, so that evidence and survivor and witness testimony will become “stale” and to decrease the likelihood of conviction of the offender.</p> <p>In observations and stakeholder interviews, we learned that judges often continue sexual assault cases for years based on defense pre-trial motions.</p> | <p>Develop procedures for timely sexual assault case processing, addressing expected timelines for assigning cases to prosecutors, contacting survivors for interviews and case status updates, and witnesses being identified and interviewed.</p> <p>Develop a procedures and capabilities for electronic receiving of cases from law enforcement.</p> <p>Consider opportunities for reducing the impact of defense delays on sexual assault cases, including requesting documents likely to be reviewed by defense to decrease this time.</p> <p>Set deadlines for reviewing sexual assault cases, and develop procedures for regularly reviewing a list of cases pending review to ensure that deadlines are met.</p> | <ul style="list-style-type: none"> • Administrative Practices • Resources • Linkages • Accountability | Whatcom Co. Prosecutor’s Office |
| <p>In stakeholder interviews, advocates noted delays in waiting for a forensic exam at the hospital; waits at times were as long as 8 or 10 hours. One advocate shared that a survivor she was working with chose to leave and forego the exam rather than wait.</p> <p>In stakeholder interviews, advocates shared that survivors had been asked to leave and come back because there was no forensic nurse available to conduct the forensic exam, without instruction on</p> | <p>Research best practices in forensic nurse scheduling and protocol, consulting with the International Association of Forensic Nurses (IAFN) and/or model SANE programs in other communities.</p> <p>Consider the ways that forensic nurses are recruited, eligibility guidelines for being a forensic nurse, and compensation.</p> <p>Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call</p> | <ul style="list-style-type: none"> • Administrative Practices • Resources • Accountability | PeaceHealth St. Joseph Hospital |

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| preserving evidence; in other instances, survivors had been told to go to the hospital in Skagit or Snohomish County for the forensic exam. This information was echoed by survivors in focus groups. | schedule, and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program. Research and explore development of a 24-hour forensic nursing center, apart from the hospital emergency department, to provide increased accessibility, safety, and privacy for survivors. | | |
| Testing of sexual assault kits can take up to 4 to 5 months, even for cases with high priority. Sexual assault kits that are not high priority may take years to be tested. | The State Crime Lab should explore increased resources to process sexual assault exam kits, including anonymous kits, in a timely manner. | <ul style="list-style-type: none"> • Rules and Regulations • Administrative Practices • Resources | State Crime Lab |
| Stakeholders across systems report that caseload and staffing resources contribute to practitioners' ability to respond to reports of sexual assault and process cases. | The City of Bellingham, Whatcom County, and PeaceHealth St. Joseph Hospital should explore increased funding to strengthen the capacity of systems to respond to sexual assault. | <ul style="list-style-type: none"> • Resources | City of Bellingham Whatcom County PeaceHealth St. Joseph Hospital |

| Identified Gaps | Recommendations | Audit Trails Identified | Agencies That Must be Involved |
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| <i>Gap II: Sexual assault survivors experience a lack of follow-up, communication, and engagement from responding systems.</i> | | | |
| Survivors shared; They didn't receive communication about the next steps after reporting across disciplines; They never received any follow up from the hospital about the results of their SANE exam; They never received any follow up or checking in from advocates after a SANE exam or initial crisis call, and were not aware of community-based advocacy services offered; They were never notified by law enforcement their cases were being referred for prosecution or being closed and not sent to prosecution for review; They contacted detectives to find out about their cases, but never heard back; Plea agreements were made or changed | Implement an advocacy-initiated response for survivors of sexual assault, developing a procedure and timeline for follow-up, safety planning, and offering legal advocacy for all survivors who receive DVSAS support during a sexual assault exam, a call to the helpline, a walk-in at the downtown office, or reporting to law enforcement or other systems. Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system. Expand the advocacy Counselor Core training program to include comprehensive training on criminal legal | <ul style="list-style-type: none"> • Administrative Practices • Resources • Concepts and Theories • Linkages • Education and Training | DVSAS PeaceHealth St. Joseph Hospital Bellingham Police Department Whatcom Co. Sheriff's Office Whatcom Co. Prosecutor's Office DV Commission |

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| without notifying the survivor; They were never contacted by prosecutors or prosecution-based advocates about cases being reviewed, dismissed, or pled; or about sentencing or victim impact statements; They were never notified when their offender was released from custody; They didn't receive communication about anonymous reporting options and kit testing results, or how the State Crime Lab would prioritize or not prioritize their kit for testing. | <p>responses to sexual assault.</p> <p>Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate.</p> <p>Establish protocol for offering to refer survivors to other culturally specific advocacy services whenever possible.</p> | <p>Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate.</p> <p>Establish protocol for offering to refer survivors to other culturally specific advocacy services whenever possible.</p> | | |
| Survivors shared that they didn't receive communication about the next steps after reporting across disciplines; they never received any follow up from the hospital about the results of their SANE exam; they never received any follow up or checking in from advocates after a SANE exam or initial crisis call, and were not aware of community-based advocacy services offered; and they didn't receive communication about anonymous reporting options and kit testing results, or how the State Crime Lab would prioritize or not prioritize their kit for testing. | <p>Develop procedure for follow-up with all survivors who receive sexual assault exams. Follow-up should reiterate any next steps in medical care that were discussed, offer referrals to community-based advocacy services, and provide options for reporting, if desired by the survivor.</p> <p>Research and explore development of a 24-hour forensic nursing center, apart from the hospital emergency department, to provide increased accessibility, safety, and privacy for survivors. The forensic center should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.</p> | <p>Develop procedure for follow-up with all survivors who receive sexual assault exams. Follow-up should reiterate any next steps in medical care that were discussed, offer referrals to community-based advocacy services, and provide options for reporting, if desired by the survivor.</p> <p>Research and explore development of a 24-hour forensic nursing center, apart from the hospital emergency department, to provide increased accessibility, safety, and privacy for survivors. The forensic center should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.</p> | <ul style="list-style-type: none"> • Administrative Practices • Resources • Linkages | PeaceHealth St. Joseph Hospital |
| In interviews, stakeholders shared that across disciplines, agencies have no protocols, policies, or guidelines that direct them in their communication and follow up. | <p>Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include notifications about case updates and delays, case decision points, timing of suspect interviews (particularly if there is a safety concern), and referrals of cases to prosecution. Follow-up should also include referring survivors to community-based advocacy services for information, advocacy, and support.</p> | <p>Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include notifications about case updates and delays, case decision points, timing of suspect interviews (particularly if there is a safety concern), and referrals of cases to prosecution. Follow-up should also include referring survivors to community-based advocacy services for information, advocacy, and support.</p> | <ul style="list-style-type: none"> • Administrative Practices • Linkages • Mission, Purpose, and Function • Accountability | Bellingham Police Department Whatcom County Sheriff's Office |

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| In interviews, stakeholders shared that across disciplines, agencies have no protocols, policies, or guidelines that direct them in their communication and follow up. In interviews, stakeholders from the prosecutor's office shared that neither prosecutors nor prosecution-based advocates reach out to survivors when there is no update. They tell survivors that they can call the office with questions, placing the burden on the survivor. | Develop standard operating procedures for survivor engagement and follow-up in sexual assault cases, defining who is responsible for contact with survivors and when. Consistent follow-up with survivors should include seeking survivor input on their justice needs and hopes for their cases; notifications of receiving case referrals from law enforcement; case updates and delays, case decision points, reviews of prosecution timelines and processes, and case declinations; dismissals, closures, or no-actions; timely preparation with survivors for impact statements; face-to-face meetings with survivors upon receiving cases; and providing referrals to community-based advocacy services for information, advocacy, and support. | <ul style="list-style-type: none"> • Administrative Practices • Linkages • Mission, Purpose, and Function • Accountability | DVSAS PeaceHealth St. Joseph Hospital Bellingham Police Department Whatcom Co. Sheriff's Office Whatcom Co. Prosecutor's Office DV Commission |
| Sexual assault survivors experience a lack of follow-up, communication, and engagement from responding systems. | Lead the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases. Lead the SART to develop a "road map" for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines; who to call with questions; and survivor rights. | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Linkages • Accountability | DV Commission All agencies participation in SART |

| Identified Gaps | Recommendations | Audit Trails Identified | Agencies to be Involved |
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| <i>Gap III: The quality of institutional responses to reports of sexual assault is significantly influenced by perceptions of survivor credibility – often to the exclusion of investigating suspect behavior and credibility.</i> | | | |
| In interviews and focus groups, survivors shared they feel often that they are being interrogated | Encourage practitioners throughout systems to take the online Implicit Association Test , which is publicly | <ul style="list-style-type: none"> • Concepts and Theories • Education and Training | DVSAS PeaceHealth St. Joseph Hospital |

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| <p>and blamed.</p> <p>In observations of case staffing at multi-disciplinary collaboration meetings, it was noted that survivor credibility is regularly questioned, instead of examining vulnerabilities.</p> | <p>available on a variety of topics, including race and gender.</p> <p>Encourage practitioners to attend Lummi Victims of Crime's Annual Domestic Violence and Sexual Assault Conference each October, a local and culturally specific training that offers opportunities for increasing knowledge, decreasing bias, and developing or strengthening partnerships.</p> | <p>Bellingham Police Department Whatcom Co. Sheriff's Office Whatcom Co. Prosecutor's Office DV Commission</p> |
| <p>In interviews, detectives shared that if they view survivors as not credible, they will not pursue additional case details such as suspect or collateral interviews; and prosecutors shared that their perceptions of survivor credibility play a significant role in their decisions on whether or not to file charges and pursue prosecution.</p> <p>In several cases reviewed, there were missed opportunities for investigating suspect credibility and corroborating survivor reports</p> <p>In several cases reviewed, detectives began survivor interviews by stressing the importance of being "honest" and "telling the truth," and noting that "sexual assault allegations are serious."</p> <p>Language in case files often reflected a view that survivors lie; the Team noted the following examples from case files:</p> <ul style="list-style-type: none"> • she "admitted" to having two drinks • she "did not seem upset" in the videos the offender took of the assault • she had "major credibility issues • something "seemed odd" with the survivor's statement | <p>Implement procedures to refer all sexual assault cases to detectives, and for detectives to refer all sexual assault cases to prosecution. Upon prosecutorial review, detectives should complete any follow-up requested by the prosecutor to strengthen the case.</p> <p>Implement report writing guidance for investigators and reviewing sergeants so that reports contain appropriate use of language and components based on best practices. Implement best practices in report writing to remove language of consensual sex in sexual assault cases and to remove opinion-based statements. Utilize EVAWI webinar on Effective Report Writing: Using the Language of Non-Consensual Sex and IACP resources for guidance.</p> <p>Implement utilization of EVAWI resources to reduce gender bias in sexual assault cases: Reducing Gender Bias in Sexual Assault Response and Investigation and Uncovering Sexual Assault in Domestic Violence Calls: An Improved Law Enforcement Response to Assess for Sexual Violence. Build an Evidence Based Case and Reduce Gender Bias.</p> | <p>Bellingham Police Department Whatcom Co. Sheriff's Office</p> <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Linkages • Mission, Purpose, and Function • Education and Training |

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| <p>In interviews and observations, it was noted that prosecutors rarely use expert witnesses to explain survivor vulnerability, suspect grooming and targeting, impacts of trauma, and what the behavior of a survivor can look like during and after experiencing trauma like sexual assault.</p> <p>In interviews and observations it was noted that prosecutors rarely use voir dire (a preliminary examination of a witness or a juror by a judge) as an opportunity to explore juror biases and education potential jurors about credibility.</p> <p>In an observation of a jury trial, the jury did not convict the offender because the survivor lied about a contact she had had with her boyfriend; the jury then did not believe her story about the sexual assault, and believed the offender despite contradictions in his story.</p> <p>Prosecutors shared that their perceptions of survivor credibility play a significant role in their decisions on whether or not to file charges and pursue prosecution. One prosecutor noted that the designation “insufficient evidence” as a reason to decline a case often was related to “victim credibility.”</p> | <p>Create a small “unit” of prosecutors specialized in adult (16+) sexual assault cases.</p> <p>Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, survivor credibility vs. vulnerability, suspect behavior and grooming, and other sexual assault dynamics.</p> <p>Consider the role of the Whatcom County Prosecutor’s Office of having a responsibility to survivors and the public to seek justice, not only in cases they are sure they can win: <i>“The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict.”</i> –American Bar Association</p> <p>Establish protocol to flag concerns about potential lines of questioning about survivor history as a pre-trial motion, so the judge has the opportunity to rule before the trial.</p> <p>Implement protocol requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy prosecutor whenever possible, before officially declining cases, closing, dismissing, or no-actioning cases.</p> <p>Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if so, request that law enforcement seek and provide that evidence to the prosecutor.</p> | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Linkages • Mission, Purpose, and Function • Accountability • Education and Training | Whatcom Co. Prosecutor’s Office |
| <p>In interviews and observations, it was noted that prosecutors rarely use expert witnesses to explain survivor vulnerability, suspect grooming and</p> | <p>Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.</p> | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories | DV Commission |

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| targeting, impacts of trauma, and what the behavior of a survivor can look like during and after experiencing trauma like sexual assault. | | | |
| <p>In interviews and focus groups, survivors shared they feel often that they are being interrogated and blamed.</p> <p>In interviews and focus groups, survivors indicated that at times, detectives used language that suggested they were looking for inconsistencies in survivor's accounts of sexual assault while believing the suspects' account—questioning why a survivor's story did not align with the suspects account, or why the survivor stated that the "sex" was non-consensual when the suspect said it was consensual.</p> <p>In observations of case staffing at multi-disciplinary collaboration meetings, it was noted that survivor credibility is regularly questioned, instead of examining vulnerabilities.</p> | <p>Lead the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to improve safety and justice for survivors, and to consult on and strengthen investigations and prosecutions in adult sexual assault cases.</p> <p>Lead the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases.</p> <p>Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies.</p> <p>Offer increased learning opportunities for responding systems and for Commission members and their agencies to explore topics of implicit gender and racial bias as they relate to sexual assault.</p> <p>Develop and implement messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault, including reframing "credibility issues" as "vulnerability issues" for survivors.</p> <p>Lead conversations with the recommended SART and other multi-disciplinary groups to develop a set of values to guide practitioners to talk about sexual assault, cases, and survivors in a way that combats, not reinforces, societal myths and misconceptions.</p> | <ul style="list-style-type: none"> Resources | <p>DV Commission</p> <p>All agencies participation in SART and trainings</p> |

| Identified Gaps | Recommendations | Audit Trails Identified | Agencies to be Involved |
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| <p><i>Gap IV: There is a lack of criminal accountability for reported sexual assault offenders in our community, which includes and may enable serial offenders.</i></p> | | | |
| <p>In interviews, stakeholders noted that there were inconsistencies in the quality of documentation in forensic nurse reports.</p> | <p>Consider the ways that forensic nurses are recruited, eligibility guidelines for being a forensic nurse, and compensation, considering how the pool of applicants can be increased and how the program may be further incentivized.</p> <p>Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule, and strengthen meaningful case reviews, input, and accountability for the Forensic Nurse program.</p> | <ul style="list-style-type: none"> • Administrative Practices • Resources • Accountability | <p>PeaceHealth St. Joseph Hospital</p> |
| <p>Case reviews indicated a lack of communication between prosecution and law enforcement may create missed opportunities to further strengthen cases. Prosecution may not receive sufficient evidence from law enforcement investigations to file charges, and yet, without feedback regarding what is needed, law enforcement does not have direction in strengthening investigations.</p> <p>Law enforcement practitioners noted in interviews that after a case has been referred to prosecution, there is a perception that the role of law enforcement is complete, and practitioners immediately move on to new cases, creating barriers to completing additional investigation.</p> <p>In stakeholder interviews with law enforcement and prosecution, it was shared that not all sex offenses involving adult survivors are forward to the prosecutor's office for review. All sex offenses involving child victims are forwarded, as required</p> | <p>Develop a screening procedure, database, or software that can be used to easily and routinely match offenders in current reports with past cases, initiating the process of identifying serial offenders.</p> <p>Research and implement applicable elements of the International Association of Chiefs of Police resources: Sexual Assault Incident Reports: Investigative Strategies; Model Policy on Investigating Sexual Assaults; Supplemental Report Form for Sexual Assault; Sexual Assault Report Review Checklist; and Bringing Sexual Assault Offenders to Justice training video and discussion guide.</p> <p>Develop investigative protocols for sexual assault that include steps for identifying all relevant, potential witnesses and evidence.</p> <p>Implement procedures to refer all sexual assault cases to prosecution to complete any necessary follow-up.</p> <p>Upon prosecutorial review, detectives should complete</p> | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Linkages • Education and Training | <p>Bellingham Police Department Whatcom Co. Sheriff's Office</p> |

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| <p>by statute.</p> <p>Case reviews, observations of case staffing, and stakeholder interviews uncovered multiple cases in which a previously reported offender – who was not initially prosecuted – went on to sexually assault others.</p> | <p>any follow-up requested by the prosecutor to strengthen the case.</p> <p>Implement protocol to request that all sexual assault kits be tested and processed to support identification of serial sexual assault offenders.</p> | | |
| <p>Tribal law enforcement officers are not deputized in Whatcom County due to insurance and training requirements.</p> <p>Tribal law enforcement officers do not have the inherent authority to pursue a fleeing suspect after the suspect leaves the reservation/tribal land.</p> | <p>Re-visit cross-deputizing Lummi law enforcement officers to close loopholes in accountability for non-Tribal members who sexually assault women on the reservation.</p> | <ul style="list-style-type: none"> • Rules and Regulations • Administrative Practices • Linkages | Whatcom Co. Sheriff's Office |
| <p>In an interview, a forensic nurse stated that she had conducted more than 150 sexual assault forensic exams and had never been called to testify in a case.</p> <p>In an observed case, the prosecutor decided not to call the forensic nurse as an expert witness regarding the lack of injury to a survivor's genitals; lack of injury is actually common in sexual assault cases, but the jury didn't know that because no one testified to this fact. The jury cited lack of injury as one of their primary reasons for not convicting.</p> <p>Case reviews indicated a lack of communication between prosecution and law enforcement may create missed opportunities to further strengthen cases. Prosecution may not receive sufficient evidence from law enforcement investigations to file charges, and yet, without feedback regarding what is needed, law enforcement does not have</p> | <p>Create a small "unit" of prosecutors specialized in adult (16+) sexual assault cases.</p> <p>Implement protocol requiring that prosecutors present their decision and reasons to the Chief Criminal Deputy Prosecutor whenever possible, before officially declining, closing, dismissing, or no-actioning cases.</p> <p>Implement protocol to encourage prosecutors, when reviewing sexual assault cases, to consider opportunities for additional evidence collection that could strengthen the case, and, if so, request that law enforcement seek and provide that evidence to the prosecutor.</p> <p>Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, survivor credibility vs. vulnerability, suspect behavior and grooming, and other sexual assault dynamics.</p> | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Linkages • Accountability • Education and Training | Whatcom Co. Prosecutor's Office |

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| <p>direction in strengthening investigations.</p> <p>A criminal legal stakeholder stated in their interview that jurors have a hard time believing that sexual assault occurs in our community, and that prosecutors need to get jurors past their initial denial. However, according to their observation, prosecutors often miss opportunities to educate jurors, such as through voir dire and using expert witnesses.</p> <p>Case reviews, observations of case staffing, and stakeholder interviews uncovered multiple cases in which a previously reported offender – who was not initially prosecuted – went on to sexually assault others.</p> | <p>Encourage all prosecutors to utilize the following resources:</p> <ul style="list-style-type: none"> • One-to-one case consultation, technical assistance, and mentoring from attorney advisors at AEquitas Prosecutors Resource Center on Violence Against Women • National Sexual Assault Investigation and Prosecution Best Practice Guide, a white paper published by the National District Attorneys Association in January 2018 • <i>Strategies: The Prosecutors' Newsletter on Violence Against Women, Beyond Conviction Rates</i> (article or webinar), <i>Expert Testimony on Victim Behavior</i> (article), <i>Model Response to Sexual Violence for Prosecutors</i> (article), and <i>Overcoming the Consent Defense</i> (article), all resources from Aequitas | <ul style="list-style-type: none"> • Administrative Practices • Linkages • Accountability • Education and Training | <p>DV Commission</p> <p>All agencies participation on SART and in trainings</p> |
| <p>Case reviews, observations of case staffing, and stakeholder interviews uncovered multiple cases in which a previously reported offender – who was not initially prosecuted – went on to sexually assault others.</p> <p>Tribal law enforcement officers are not deputized in Whatcom County due to insurance and training requirements; At times, when Lummi Law and Order detains a non-Native suspect, Whatcom County Sheriff's Office or Washington State Patrol decline to arrest; Tribal law enforcement officers do not have the inherent authority to pursue a fleeing suspect after the suspect leaves the reservation/tribal land; There are local online message boards that "coach" offenders on how easy it is to rape Native women on reservations and get away with it by taking advantage of the limits and confusion resulting from jurisdictions.</p> | <p>Lead the hospital, community-based advocacy agencies, law enforcement, and prosecution to develop a Sexual Assault Response Team (SART), either within or apart from existing multi-disciplinary efforts, to consult on and strengthen investigations and prosecutions in adult sexual assault cases.</p> <p>Lead the SART to conduct regular peer case reviews as an opportunity for learning to improve outcomes in sexual assault cases.</p> <p>Lead the SART to research and develop processes, including non-investigative or an updated anonymous reporting system, which identify serial offenders and provides a way to notifying survivors about serial offenders if desired.</p> <p>Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.</p> | | |

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| | | <p>Seek training for Commission members and partner agencies on the Violence Against Women Act (VAWA) and its implications for Tribal sovereignty and jurisdictions, justice for Native survivors, and accountability for offenders.</p> <p>Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies.</p> | | |
| <p>In interviews, law enforcement and prosecutors spoke to the limitations of time to spend on sexual assault cases, given their high caseloads. One detective stated, "if we had more time to investigate, we'd do a better job for the community."</p> <p>Testing of sexual assault kits can take up to 4 to 5 months, even for cases with high priority. Sexual assault kits that are not high priority may take years to be tested.</p> | <p>The City of Bellingham, Whatcom County, and Peace Health St. Joseph Hospital should explore increased funding to strengthen the capacity of systems to respond to sexual assault.</p> <p>The State Crime Lab should explore increased resources to process sexual assault exam kits, including anonymous kits, in a timely manner.</p> | <ul style="list-style-type: none"> Resources | <p>PeaceHealth St. Joseph Hospital City of Bellingham Whatcom County</p> | |

| Identified Gaps | Recommendations | Audit Trails Identified | Agencies to be Involved |
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| <p><i>Gap V: Across systems, there is lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement.</i></p> <p>Across systems, there is lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement.</p> <p>Case file reviews showed a consistent lack of trauma-informed interviewing. Team members documented the following:</p> <ul style="list-style-type: none"> interviews with survivors were conducted more as suspect interviews | <p>Establish protocol for practitioners to begin their interactions with survivors by using statements of support or validation, including statements such as "I'm sorry this happened to you," "I believe you," or "I'm sorry to meet under these circumstances."</p> <p>Establish protocol for practitioners to explain to survivors the "why" behind the questions. For example:</p> | <ul style="list-style-type: none"> Administrative Practices Concepts and Theories Mission, Purpose, and Function, Education and Training | <p>DVSAS PeaceHealth St. Joseph Hospital Bellingham Police Department Whatcom Co. Sheriff's Office Whatcom Co. Prosecutor's Office DV Commission</p> |

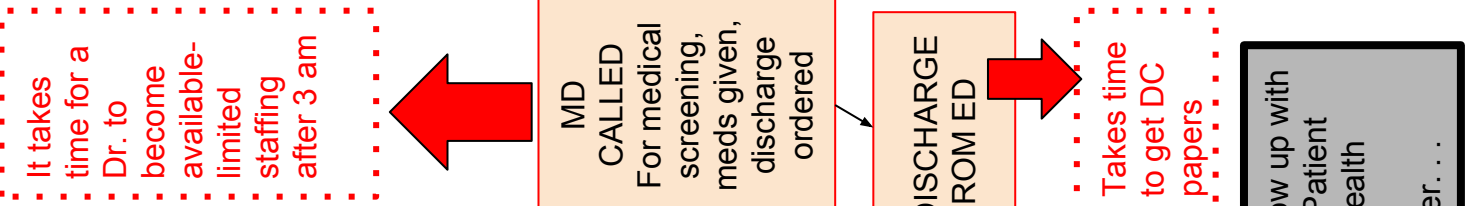
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| <ul style="list-style-type: none"> • child advocacy center interview language was used with a teenager • reports use language such as “sex” when “rape” is what happened • reports use the language “he said-she said” • in a case with a young adult, a prosecutor communicated information the parents, before asking the survivor if it was okay to contact them • a file stated that no evidence of forcible sexual assault was discovered during the examination at a family medicine practice | <ul style="list-style-type: none"> • “I am asking you how much you drank because we may be able to prove that you were too intoxicated to consent.” • “I am asking you what you were wearing so I can determine if there is clothing I should be collecting as evidence.” • “I am asking if you had other sexual partners within the last few days to see if we need to make sure that we identify the right DNA.” <p>Encourage practitioners to view the following resources and consider how they can meet the needs of survivors and overcome barriers to justice for survivors and accountability for offenders in their systems:</p> <ul style="list-style-type: none"> • Book: <i>Missoula</i>, By Jon Krakauer • Ted Talk: <i>The Reporting System Survivors Want</i>. • Podcast: <i>Anatomy of a Doubt</i>, by This American Life • RCW: Victim Bill of Rights <p>Establish procedures to address how practitioners are supported and accountable in responding to reports of sexual assault, including processes for debriefing and addressing burn-out and vicarious trauma.</p> <p>Seek and implement increased training and partnership opportunities for practitioners serving communities that are historically marginalized and underrepresented to address unique needs and barriers, including people who are LGBTQ+, people who are Deaf, and people of color. Establish protocol to consult with and refer to culturally-specific advocacy agencies whenever possible.</p> | | |
| In interviews, advocates shared that they do limited safety planning with survivors of sexual assault, if any; safety is often not on their radar in | Develop a 0.5 FTE Sexual Assault Criminal Legal Advocate position to provide advocacy for sexual assault survivors navigating the criminal legal system. | <ul style="list-style-type: none"> • Administrative Practices • Resources | DVSAS |

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| <p>the same way it is with domestic violence.</p> <p>Advocates shared that they have less knowledge and are less comfortable with the criminal legal system as it applies to sexual assault cases than they are with its application to domestic violence.</p> <p>Volunteer advocates shared that they feel overwhelmed and intimidated by providing support during forensic exams, and question how to engage survivors during the long waits, what information to provide, and how to advocate most effectively.</p> | <p>Expand the Advocacy Counselor Core training program to include comprehensive training on criminal legal responses to sexual assault.</p> <p>Develop a group of volunteers who are especially interested in providing sexual assault criminal legal advocacy, providing increased training and consultations with the Sexual Assault Criminal Legal Advocate, to increase expertise and availability of sexual assault advocacy.</p> <p>Create shadow shifts for volunteers for their first responses to SANE exams and implement peer debriefings and reviews of support provided during SANE exams.</p> <p>Implement a method for survivors to connect directly with advocates via text or online.</p> <p>Explore strategies to overcome the impact of calling an answering service after hours, including creating and marketing videos and other materials that demonstrate the process of calling the helpline after hours.</p> <p>Establish protocol for offering to refer survivors to other culturally specific advocacy services whenever possible, including Lummi Victims of Crime and NW Network of Bi, Trans, Lesbian and Gay Survivors of Abuse. Increase collaboration with advocates from partner advocacy agencies to increase consistency and accuracy in messaging and information for survivors, and to ensure that survivors do not feel “passed off” by referrals.</p> | <ul style="list-style-type: none"> • Education and Training | |
| <p>In systems mapping, it was noted that at times the hospital forgets to call an advocate to provide support during the SANE exam; and that law</p> | <p>Grant supervisory authority to the Forensic Nurse Coordinator, enabling them to implement a full on-call schedule, and strengthen meaningful case reviews,</p> | <ul style="list-style-type: none"> • Administrative Practices • Resources | <p>PeaceHealth St. Joseph Hospital</p> |

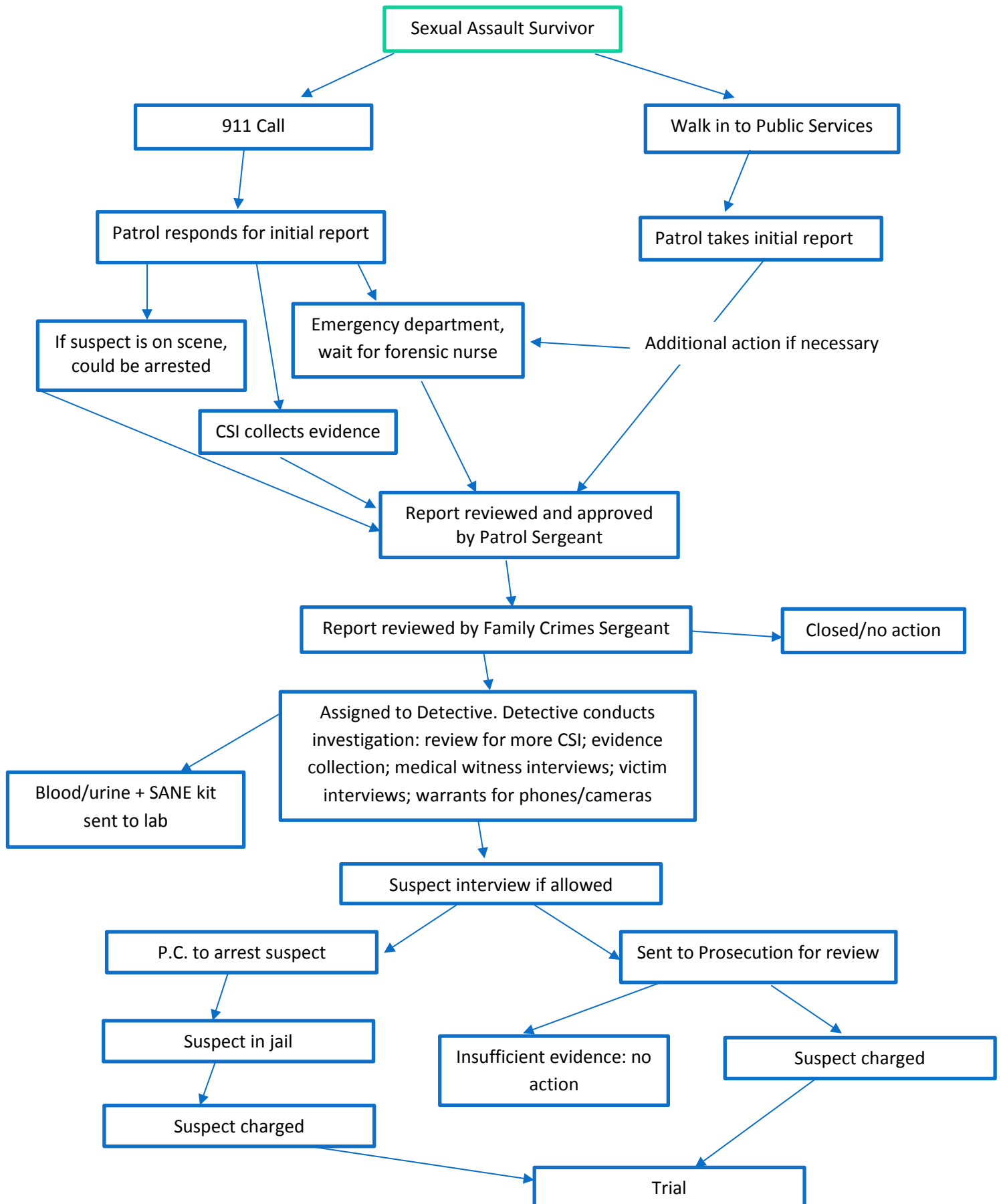
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| <p>enforcement and prosecutors rarely contact a community-based advocate to be present with survivors during interviews, unless the survivor is already working with an advocate. Moreover, practitioners rarely make referrals to community-based advocacy support, except as part of the SANE exam.</p> <p>In interviews with advocates and nurses, it was noted that there is confusion at times about when the hospital should call an advocate from LVOC to respond for a sexual assault exam vs. an advocate from DVSAS. Hospital protocol states that LVOC should be called for all Native survivors, but the method of identifying whether the survivor is Native or not may be unclear. In some cases, advocates from both agencies are called.</p> | <p>input, and accountability for the Forensic Nurse program.</p> <p>Research and explore development of a 24-hour forensic nursing center, apart from the hospital emergency department, to provide increased accessibility, safety, and privacy for survivors. The forensic center should be available both for the sexual assault exam, as well as for initial aftercare for survivors, whether or not they choose to report.</p> <p>Explore the possibility of joint interviewing of adult sexual assault survivors with law enforcement, noting best practice recommendations for joint interviewing from EVAWI: http://www.evawintl.org/PAGEID9/Best-Practices/FAQs/Joint-Interviews</p> <p>Establish protocol that allows survivors to decide if they want to see an advocate from LVOC or DVSAS. When calling community-based advocates to provide support for survivors during forensic exams, say to the survivor: "I am going to contact a sexual assault advocate. Do you prefer that I contact Lummi Victims of Crime, or Domestic Violence and Sexual Assault Services?"</p> | <ul style="list-style-type: none"> • Linkages • Accountability | |
| <p>Case file reviews showed a consistent lack of trauma-informed interviewing.</p> <p>Through stakeholder interviews across disciplines, it became apparent how many times survivors are asked to tell their stories – by forensic nurses, patrol, detectives, and prosecutors.</p> <p>In an interview, a detective noted that the perceived emotional strength of the survivor is a factor in considering whether or not to forward the case to prosecution, often questioning if prosecution is in the best interest of the survivor.</p> | <p>Institutionalize trauma-informed interview training and techniques utilizing the resources identified in this report.</p> <p>Implement protocol to standardize recording all survivor interviews, whenever possible and consented to, to ensure that the survivor does not have to re-tell the events. Survivors should not be asked to prepare handwritten statements.</p> <p>Implement protocols for interviewing survivors of sexual assault which are parallel to the recommended protocol for interviewing officers involved in critical</p> | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Linkages • Education and Training | <p>Bellingham Police Department Whatcom Co. Sheriff's Office</p> |

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| <p>In interviews and focus groups, law enforcement indicated they had received little to no training on interviewing survivors or trauma-informed interviewing; rather, their training is focused on interviewing suspects and detecting evasion and deception. Law enforcement stakeholders stated a desire for more best-practice tools and training for interviewing survivors.</p> | <p>incidents. For example, officers should conduct only brief interviews with survivors immediately after an incident; in-depth interviews with survivors should take place after a few sleep cycles.</p> <p>Implement protocol to standardize officer debriefing after sexual assault calls, as they do after major incidents such as homicide, to decrease burnout and increase empathy for survivors.</p> <p>Explore the possibility of joint interviewing of adult sexual assault survivors with the hospital, noting best practice recommendations for joint interviewing from EVAWI: http://www.evawintl.org/PAGEID9/Best-Practices/FAQs/Joint-Interviews</p> | |
| <p>In system mapping, it was detailed that cases are assigned to prosecution-based advocates based on which prosecutor has the case, so opportunities to develop expertise in specialized types of victimization such as adult sexual assault may not be available to all advocates.</p> <p>In interviews, prosecutors and advocates shared that there is often an initial “meet and greet” with survivors when prosecution receives a case. At this point, information is verbally communicated about next steps and timelines. Survivors often feel overwhelmed by the information and cannot remember what to expect.</p> <p>In an observation, a prosecutor made the comment that a survivor they were working with “seemed to have it together” and indicated that this contrasted with another survivor who did not show up for a meeting.</p> <p>In interviews, stakeholders noted that defense has</p> | <p>Create a small “unit” of prosecutors specialized in adult (16+) sexual assault cases.</p> <p>Develop protocol for standardized training for all Prosecution-Based Advocates in adult sexual assault advocacy. All Prosecution-Based Advocates should be experts in adult sexual assault advocacy.</p> <p>Seek training on and opportunities such as voir dire and using expert witnesses to increase jury education regarding implicit bias (especially gender and racial bias), impacts of trauma, survivor credibility vs. vulnerability, suspect behavior and grooming, and other sexual assault dynamics.</p> <p>Review the video Integrating a Trauma-Informed Response from Aequitas.</p> <p>Develop protocol for preparing survivors for defense interviews, ensuring that survivors are aware of their rights, explaining the limited role of the prosecutor, and ensuring that survivors know that they can have their</p> | <ul style="list-style-type: none"> • Administrative Practices • Concepts and Theories • Education and Training <p>Whatcom Co. Prosecutor’s Office</p> |

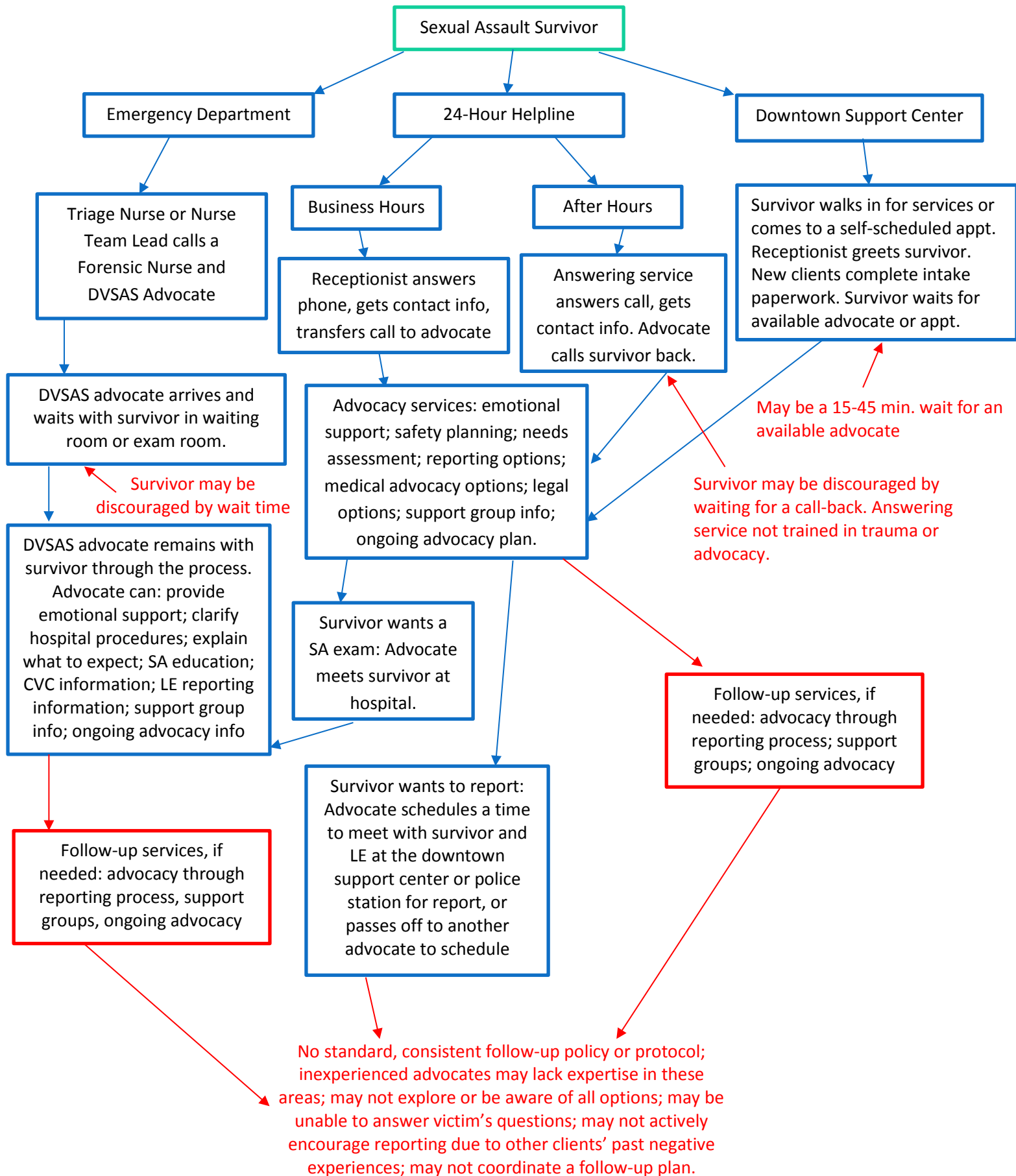
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| the opportunity to interview survivors. Prosecutors can be present during those interviews but do not represent the survivor. | own attorney or advocate present. | | |
| <p>Across systems, there is lack of expertise in sexual assault dynamics, trauma-informed care, and effective survivor engagement.</p> <p>Case file reviews showed a consistent lack of trauma-informed interviewing.</p> <p>Through stakeholder interviews across disciplines, it became apparent how many times survivors are asked to tell their stories – by forensic nurses, patrol, detectives, and prosecutors.</p> <p>In an observation of sentencing, a survivor indicated that she was surprised and displeased by the plea agreement; she had wanted significantly more accountability than was agreed to. However, the prosecutor indicated to the judicial officer that he had sought survivor input and that the plea met the survivor's goals for accountability. The survivor contradicted this view during her victim impact statement, stating that she believed that the offender planned his actions and would do it again, and that she wanted him to receive the maximum sentence.</p> | <p>Develop and implement a messaging campaign within local partner agencies to promote increased understanding of the realities of sexual assault.</p> <p>Lead the Sexual Assault Response Team (as recommended in this report) to develop a “road map” for survivors that provides clear and accurate information on reporting, communication, and timelines across disciplines, including who to call with questions and survivor rights.</p> <p>Promote and support Lummi Victims of Crime’s Annual Domestic Violence and Sexual Assault Conference.</p> <p>Develop and maintain a list of local and regional expert witnesses, including particular areas of expertise, as a resource for prosecutors.</p> <p>Host local trainings for law enforcement and prosecutors on effective sexual assault investigation and prosecution strategies.</p> <p>Explore methods for increasing opportunities for survivor input and feedback on strengths and gaps in the systems response, such as creating victim input panels, conducting on-going survivor interviews and focus groups, and/or creating a database for survivor input.</p> <p>Lead the SART team to develop protocols for a coordinated initial response for survivors by forensic nurses, law enforcement, and advocates, to reduce the number of times the survivor has to tell their story.</p> | <ul style="list-style-type: none"> • Concepts and Theories • Linkages • Accountability • Education and Training | DV Commission All agencies participation in SART and trainings |



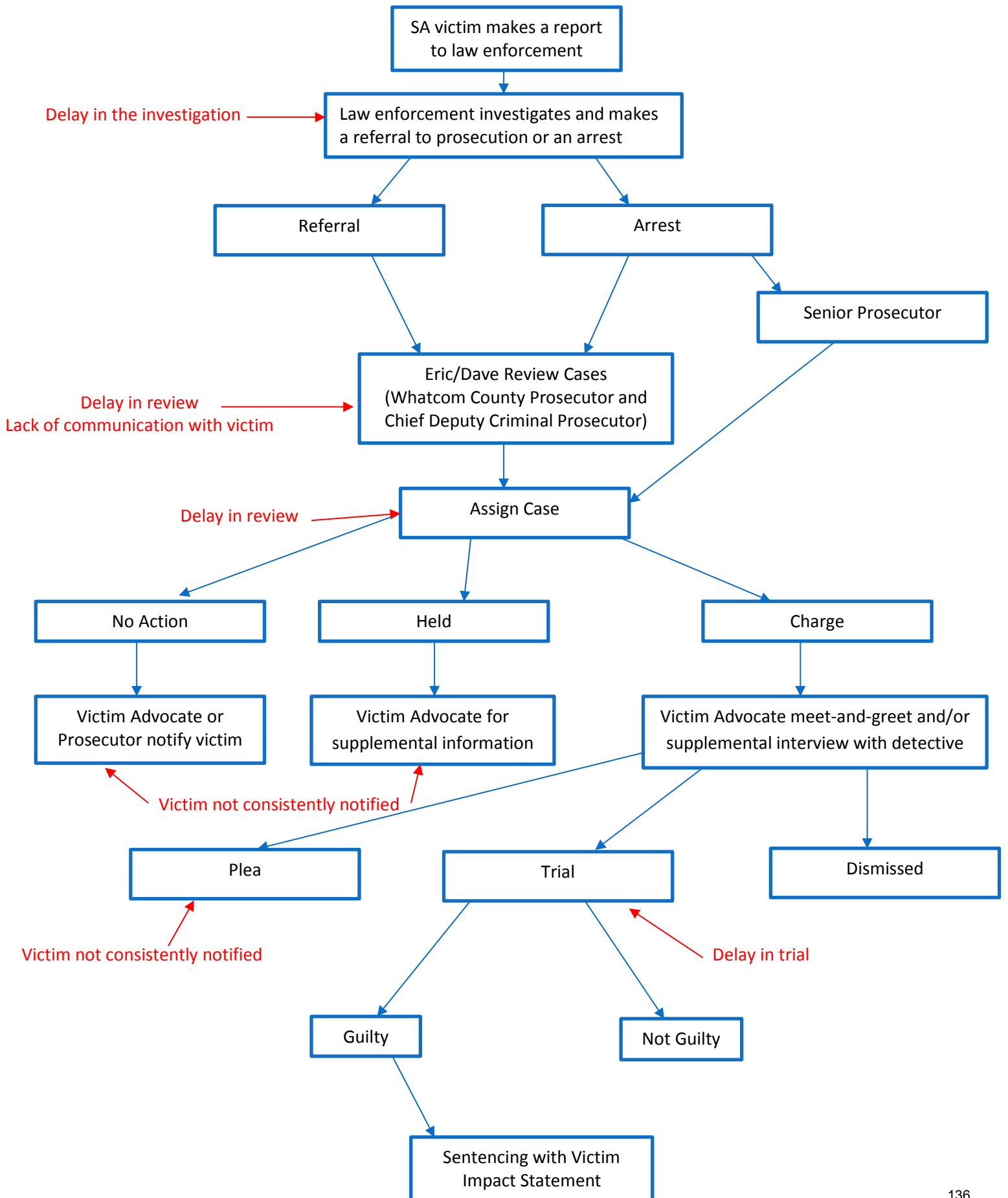
BELLINGHAM POLICE DEPARTMENT MAPPING



DVSAS MAPPING



PROSECUTION MAPPING



WCSO

Sexual Assault Investigation outline

