**SURVIVORS’ BILL OF RIGHTS**

**Medical care**

* No cost to survivor for sexual assault examination kit.
* Information packet given to survivor about the kit.
* Info on free and low cost HIV testing and STI testing and treatment services in the area.

**Medical Provider’s role**

* Collect the evidence for the kit and secure it for law enforcement pick-up, assess and treat medical issues.
* With survivor consent, release the kit to law enforcement within days. (3 days best practice, 30 days legal requirement)
* Survivor’s option: notify survivor of release of kit to law enforcement.
* Get contact information for the survivor.
* Provide the survivor with information about the state’s tracking system for kits.
* Survivor has the option to release the kit to law enforcement at a future time.

**Police Issues when kit is received**:

* Confirm contact info and request updates on contact info.
* Inform on statewide tracking system for rape evidence kits.
* Inform of right to have the rape evidence kit tested in 180 days.
* Inform of future right to know if kit tested, if DNA profile developed.
* Request consent to enter kit info into statewide tracking system. (14 days to enter after consent)
* Inform survivor of date of expected results of kit.
* At the conclusion of the investigation, inform survivor whether a DNA profile was developed from the kit.

**If no DNA profile is developed:**

* Agency gives 180 days-notice to survivor of agency intention to destroy kit, and notice of process to appeal destruction decision
* Give survivor a D.P.S. form with explanation of their rights.
* Secure a signed receipt for the DPS document.

**Before any law enforcement interview, advise about:**

* Right to an advocate (with sexual assault expertise), counselor, or support person present at any interview with law enforcement, prosecution, or defense attorney.
* Interviewer contacts any requested supportive person.
* Law enforcement interview may only proceed without a requested supportive person if no supportive person can arrive within a reasonable timeframe.

**Other rights affecting Police**

* Survivor has the right to an advocate throughout the criminal investigation and criminal justice process.
* Treatment of the survivor shall not be altered by exercise of rights.
* Prohibition on officers discouraging evidence kit collection.
* Prohibition on officers discouraging survivors from seeking post-assault medical examination.
* Polygraph may not be used on survivors.
* Survivors may not be prosecuted for misdemeanors revealed in the investigation of sexual assault allegations.
* Survivor has right to request another officer for an interview If the survivor views the currently assigned officer is unsupportive or inadequately trained.
* Law enforcement may require that requests for information pursuant to this law be made in writing.
* Law enforcement shall respond to these written requests in writing.

**Crime Lab Duties**

* Ensure kit is in statewide tracking system.
* Complete testing within 180 days of receipt.

**Prosecution Issues**

* Survivor has a right to the presence of a supportive person in any stage of the legal process, including defense interviews. This right exists in “any interaction” with legal or criminal justice representatives in NM.
* Right to be heard through a victim impact statement at any proceeding relevant to the sexual assault.
* Significant expansion of right to be heard.
* Prohibition on discouraging a survivor from seeking evidence kit collection.
* Prohibition on discouraging a survivor from seeking post assault medical examination.
* Notification as required to survivor or survivor-named designee.
* Deceased survivor designees:
* Adult spouse at the time of survivor’s death Parent Adult sibling Adult child
* Right to protection from defendant and his allies.
* No requirement of survivor polygraph as condition of filing charges or participation in the justice system.
* Provide a sentencing recommendation to official conducting pre-sentencing investigation.
* Crimes committed by the survivor that are discovered through the evidence kit or the sexual assault investigation may not be charged UNLESS the crime is a felony.