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**TO: ALL BERGEN COUNTY CHIEFS OF POLICE, POLICE DIRECTORS, OFFICERS-IN-CHARGE, AND SHERIFF**

**FROM: PROSECUTOR MARK MUSELLA**

**DATE: SEPTEMBER 12, 2019**

**SUBJECT: BERGEN COUNTY PROSECUTOR'S OFFICE LAW ENFORCEMENT DIRECTIVE NO. 2019-9 REGARDING SPECIAL VICTIMS UNIT NOTIFICATION AND RESPONSE TO SEXUAL ASSAULT, CHILD SEXUAL CONTACTS, AND CHILD PHYSICAL ABUSE ALLEGATIONS**

### PURPOSE

This Directive is issued in accordance with Attorney General Law Enforcement Directive 2018-5, Implementing Procedures and Protocols for Sexual Assault Response Referrals. It provides a uniform protocol for Bergen County law enforcement referrals of sexual offense and child physical abuse allegations to the Bergen County Prosecutor's Office ("BCPO") Special Victims Unit ("SVU").

### BCPO NOTIFICATION

All Bergen County law enforcement agencies must **immediately** notify the BCPO SVU of the following:

1. All sexual assaults involving sexual penetration that occurred within the last five (5) days;
2. Sexual contact of a child under the age of 13;
3. Sexual penetration of a child under the age of 16 where the actor is more than 4 years older;
4. Sexual contact of any victim up to the age of 22 when the actor is a teacher, substitute teacher, school bus driver, coach, other school employee, contracted service provider or volunteer, parent, or supervisor/guardian of the child;



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5. Human trafficking of a child or adult;
6. Luring or stalking of a child under the age of 18 or an attempt to commit those offenses;
7. Significant physical abuse, neglect (physical/medical), cruelty, or abandonment of a child under the age of 16 by a person with the care, custody, and/or control of the child;
8. Abandonment of an infant pursuant to the New Jersey Safe Haven Infant Protection Act; and
9. Lewdness which is observed or likely to be observed by a child under the age of 13.

All law enforcement agencies operating within Bergen County must notify the BCPO SVU **within 24 hours** of the following offenses:

1. Any sexual contact of a child under the age of 16;
2. Sexual assault involving sexual penetration of an adult that occurred more than five (5) days prior to the date of report; and
3. Sexual contact of an adult who wishes to proceed with a criminal investigation where the actor holds a professional license issued by the State of New Jersey (public official, doctor, therapist, police officer, teacher, etc.).

### **METHOD OF CONTACT**

Members of the BCPO SVU are available 24 hours per day, 7 days per week. During weekday duty hours (9:00 a.m.–10:00 p.m.), please contact the BCPO SVU at 201-226-5620 and request to speak with a detective or supervisor. After hours and on weekends and holidays, contact the Bergen County Public Safety Operations Center (“PSOC”) at 201-785-8500 and request that it contact the on-call BCPO SVU detective on your behalf.

### **INVESTIGATIVE PROTOCOL**

The BCPO SVU is the primary investigative agency in all cases involving sexual assault, all human trafficking cases, cases involving sexual contact of children 12-years old and under, and all sexual incidents alleged to have been committed by school personnel and contractors, public employees, or officials licensed by the State of New Jersey in their professional capacity. The BCPO SVU will respond to other sex-based allegations and child physical abuse matters when necessary and appropriate.

Each incident will be evaluated by BCPO SVU personnel for a decision on whether a response is warranted. When the on-call BCPO SVU detective’s response is not required, he or she will continue to be available via telephone to provide whatever assistance or guidance is necessary.

For all investigations where the BCPO is the primary investigative agency, the BCPO SVU and the municipal agency shall jointly conduct the investigation; as primary investigatory agency, the BCPO shall have supervisory authority over the investigation.

### **DIVISION OF CHILD PROTECTION AND PERMANENCY NOTIFICATION**

Upon receiving a report of any sexual or other physical abuse offense against a minor, or in cases involving driving under the influence with a child in a vehicle (N.J.S.A. 39:4-50.15), when the alleged perpetrator is a parent/guardian or an individual who has a legal duty to the child or who has assumed responsibility for the care of a child, all law enforcement agencies operating within Bergen County shall immediately contact the Division of Child Protection and Permanency (“DCP&P”) at 1-877-NJ-ABUSE (1-877-652-2873).

### **CHILD INTERVIEWS AND STATEMENTS**

In investigations of sexual and significant physical injury offenses against child victims under the age of 13, victim interviews must be conducted by appropriately trained detectives from the BCPO SVU in accordance with forensic interviewing protocols. Unless authorized by the BCPO SVU, all such interviews shall take place at the BCPO Child Advocacy Center. Off-site interviews may be authorized in limited circumstances, such as when it is not feasible to have the child respond to the Child Advocacy Center due to medical concerns. Off-site interviews shall be video recorded.

Interviews of **all** victims with significant developmental disabilities must be conducted by detectives from the BCPO SVU at the Child Advocacy Center or at another appropriate location. Off-site interviews must be video recorded.

In cases of sexual assault or sexual contact of victims between the ages of 13 and 17, initial, basic information may be obtained from the child by a local law enforcement officer at an appropriate location to ascertain the details of the offense. The local officer must then contact the BCPO SVU for further discussion.

### **ADULT INTERVIEWS AND STATEMENTS**

In allegations involving sexual assault of adults, initial, basic information may be obtained by local law enforcement at an appropriate location in order to ascertain the details of the offense. Formal interviews and statements will be conducted jointly by the BCPO SVU and local law enforcement.

### **HUMAN TRAFFICKING INTERVIEWS AND STATEMENTS**

Interviews of victims of human trafficking or suspected human trafficking will ordinarily be conducted by one of the BCPO’s Human Trafficking Liaisons. When a Liaison is not available, human trafficking interviews may be conducted by other BCPO SVU detectives, or when circumstances demand, by local law enforcement with the consent of the BCPO SVU.

## SEXUAL ASSAULT RESPONSE TEAM

In all allegations of sexual assault, initial information should be obtained to determine whether the circumstances warrant the activation of the Sexual Assault Response Team (“SART”). The SART is comprised of three disciplines; law enforcement, Forensic Nurse Examiners (“FNE”) and a Confidential Sexual Violence Advocate (“CSVA”), working in a victim centered team approach to best address issues relating to cases of sexual violence.

A victim qualifies for SART activation if he or she is at least 13 years old, the assault occurred within the last five (5) days, and the victim consents to the activation. A forensic examination should be recommended for any form of penetration, including but not limited to penile/vaginal intercourse, cunnilingus, fellatio, anal or digital penetration, or in cases of contact where there may have been a transfer of bodily fluids.

If a victim qualifies for a SART activation, the responding officer shall inform the victim of the right to immediate medical attention, the value of prompt evidence collection, and the availability of SART in accordance with the simple script as promulgated by the Attorney General (See Attachment A).

A victim has the right to choose or decline to activate any or all SART components. If the victim chooses to activate any of the SART components, local law enforcement shall immediately contact the BCPO SVU and advise that there is a SART activation. The BCPO SVU detective will be responsible for contacting the members of SART whom the victim is requesting. The BCPO SVU detective will also confer with the victim, whether in person or via telephone, to answer any immediate questions. All activated members are expected to respond to the victim’s location within one hour. In emergent situations where public safety and/or destruction of evidence are factors, law enforcement shall consult with the victim and team members to prioritize services.

## OUT-OF-COUNTY REPORTS

In any case where the victim seeks services in a county other than the one in which the incident occurred, the law enforcement agency in the reporting county shall contact the law enforcement agency in the jurisdiction where the incident occurred. Law enforcement in the jurisdiction where the incident occurred should respond whenever possible.

## ADVISING VICTIMS OF AVAILABLE RESOURCES

After an initial investigation, and in accordance with Attorney General Directive 2018-5, law enforcement must advise a victim of the various protective orders applicable and available to him or her under the law. Those protective orders include:

1. **Sexual Assault Restraining Orders (“Nicole’s Law Restraining” Order N.J.S.A. 2C:14-12)**: At the victim’s request, a Nicole’s Law Restraining Order may be applied for in Superior Court against a defendant charged with an enumerated sex offense. Whenever a victim requests a Nicole’s Law Restraining Order, the law enforcement representative


receiving the request should refer the victim to the Assistant Prosecutor who is assigned the case for application.

2. **Sexual Assault Survivor Protection Act (“SASPA”)**: Any person claiming to be a victim of non-consensual sexual contact, sexual penetration, or lewdness, or any attempt at such conduct, who is not eligible for a restraining order as a victim of domestic violence may apply for a Temporary or Final Order of Protection. Application for a SASPA can be made to the Family Court, Domestic Violence Intake during regular business hours. This remedy is not available to a victim of a juvenile actor or in cases involving acts committed by parents, guardians or persons having care, custody or control over a minor; however, a parent or guardian of a juvenile victim may apply for protection on behalf of the minor.
3. **Domestic Violence Restraining Order**: Temporary or Final Order of Protection issued after a hearing in Family Court for any person over the age of 18 found to be a “victim of domestic violence” pursuant to N.J.S.A. 2C:25-19(d).
4. **“No-Contact” Order**: This may be issued against a juvenile or adult defendant as a condition of release.

No victim shall be advised to seek any type of restraining order until there has been a review and determination of whether such an application is available to the victim and is appropriate at that stage of the investigation. Once an assessment has been made as to the propriety of such an application, the victim shall be advised.

Prior to the conclusion of the initial contact with the victim and/or a parent or guardian, law enforcement shall provide a copy of a “Bergen County Prosecutor’s Office Special Victims Unit Available Resources” brochure that details the resources available to the victim and the BCPO SVU contact information (See Attachment B). Law enforcement shall document the transmittal in a report. Local departments may copy the brochure as needed.

I thank you for your cooperation in this matter.

  
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MARK MUSELLA  
BERGEN COUNTY PROSECUTOR

MM:pms  
Attachments

# **ATTACHMENT A**

**SEXUAL ASSAULT RESPONSE TEAM (SART)**  
**ACTIVATION PROCESS SCRIPT**

**1. Determine if this incident is a SART Activation.**

Are you thirteen years of age or older?

Yes → Proceed to the next question.

No → Contact your Sex Crimes unit during business hours @ \_\_\_\_\_. During non-business hours contact the Communications Center @ \_\_\_\_\_.

Did the assault occur within 5 days?

Yes → It is a SART Activation. Proceed to the second step.

No → SART is not activated; however, the victim may be offered the services of a confidential sexual violence advocate and a complete law enforcement investigation.

**2. Explain the availability and purpose of the SART program and explain the roles of the individual team members.**

**DESCRIPTION OF SART:** Each County has a specially trained team of qualified professionals called the Sexual Assault Response Team. It consists of a law enforcement officer, a forensic nurse examiner and a confidential sexual violence advocate. All of these team members are available to you. I am going to tell you what each team member can do for you.

**Forensic Nurse Examiner:**

A forensic nurse examiner can perform a medical forensic examination. The nurse will explain your options and will answer any questions you may have about the examination, provide medication, address medical concerns, and make aftercare referrals.

**Law Enforcement Officer:**

A law enforcement officer can gather information about what you experienced. The law enforcement officer can take a report and start an investigation. The case will be strengthened when law enforcement obtains information in a timely manner.

**Confidential Sexual Violence Advocate:**

A confidential sexual violence advocate can provide information, counseling, and support. The advocate can discuss your options and provide a variety of resources. You have the right to speak to an advocate prior to having a medical exam or speaking to law enforcement.

**3. Activate SART pursuant to the wishes of the victim.**

All SART members are available to you. Do you want me to activate all team members? YES  NO

Yes → Activate SART pursuant to your County's SART Activation Protocol.

No → Proceed to the next question.

Which team members do you want me to activate?

Law Enforcement    Forensic Nursing    Advocacy    None

Selected → Activate the selected SART members pursuant to your County's SART Activation Protocol.

None Selected → Do not activate SART

# **ATTACHMENT B**

## Protective Orders Available to Victims of Sexual Violence

### What is SASPA?

SASPA stands for Sexual Assault Survivor Protection Act, an act which addresses protection for victims of nonconsensual sexual conduct. SASPA applies to a person who alleges that he/she was the victim of nonconsensual sexual conduct, including sexual penetration, sexual contact, lewdness, or an attempt of such conduct. An application may be filed on behalf of a victim by a parent or guardian if the victim is under 18, has developmental disabilities or mental impairment.

### What is a SORO?

SORO stands for Sexual Offense Restraining Order (Nicole's Law), which is a restraining order issued by a court restraining defendants who are charged with or convicted of a sex offense or certain offenses involving endangering the welfare of a child. Under the court's order, the defendant can be restrained from contact with the victim, the victim's residence, and the victim's place of employment or school.

### What is a Domestic Violence Restraining Order?

A victim of a sexual assault or sexual contact where the defendant is a spouse, former spouse, person who is a present or former household member, or with whom the victim has a child or anticipates having a child can apply for a Domestic Violence Restraining Order. The victim can apply for the restraining order at any local law enforcement agency.

BERGEN COUNTY PROSECUTOR'S OFFICE  
Chief of Staff: Ms. Shalita



Call your Local Police Department  
24 hours a day.

Call 9-1-1 For Emergencies

24-Hour HealingSPACE Hotline:  
201-487-2227

Division of Child Protection and  
Permanency 24-Hour Hotline  
1-877-NJABUSE

To Understand All Services  
Available to Sexual Assault  
Victims in New Jersey, go to:  
[https://www.nj.gov/oag/  
end-sexual-assault/](https://www.nj.gov/oag/end-sexual-assault/)



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BERGEN COUNTY PROSECUTOR'S OFFICE  
TWO BERG'S COUNTY PLAZA  
HACKENSACK, NEW JERSEY 07601

201-226-5620

BERGEN COUNTY  
PROSECUTOR'S OFFICE  
SPECIAL VICTIMS UNIT

VICTIM INFORMATION  
PACKET



**What to do if you are or know someone who is the victim of a sexual assault:**

A victim of a sexual assault that occurred within the last five days may seek the assistance of a Sexual Assault Response Team (SART) if the victim is over the age of 13.

SART consists of the following:

Confidential Sexual Violence Advocate (CSVA)

Forensic Nurse Examiner  
Law Enforcement

Victims may request SART services by calling 9-1-1 or presenting to a law enforcement agency, healthcare facility or sexual violence service organization. The following Bergen County Medical Facilities are available for Sexual Assault Forensic Examinations:

Hackensack University Medical Center  
Hackensack

The Valley Hospital  
Ridgewood

Holy Name Medical Center  
Teaneck

Englewood Medical Center  
Englewood

There is no financial obligation to the victim associated with the investigation of a sexual assault.

**Other victims of sexual assault:**

A victim of a sexual assault that did **not** occur within the last five days may report the crime at any time to their local law enforcement agency.

They are still entitled to the services of a law enforcement investigation and a CSVA.

Victims of sexual violence are afforded the following services:

- A victim centered approach to the investigation.
- Safety.
- Honoring the victim's integrity, choices and autonomy.
- Protection of the victim's privacy.
- Assistance in identifying obstacles in the investigation and attempting to overcome them.
- Uniform treatment of all victims in every municipality and county.
- Timely forensic collection of evidence and medical treatment of injuries.

**What to do when a child under the age of 13 reports that they are the victim of a sexual offense:**

Listen to the child but do not ask questions.

Contact your local law enforcement agency or Bergen County Prosecutor's Office Special Victims Unit.

**Call 9-1-1 For Emergencies**

If you would like to remain anonymous, you can call the Division of Child Protection and Permanency at:

**1-877-NJ ABUSE**

