Resources
An extensive database of state and national resources is available from the South Carolina Victim Assistance Network via telephone at 803-750-1200 or 888-852-1900 or email: info@scvan.org

SC Victim Assistance Network (SCVAN)
Post Office Box 212863  Columbia, SC 29221
Phone (803) 750-1200 or (888) 852-1900  |  Fax (866) 473-1272

Statewide Victim Assistance Offices
FBI (Federal Bureau of Investigation)
151 Westpark Boulevard
Columbia, SC 29210
Phone (803) 551-4200
www.fbi.gov/columbia

Crime Victims’ Ombudsman
1200 Senate Street
Columbia, SC 29201
Phone (803) 734-0357

Governor’s Office
State Office of Victim Assistance (SOVA)
Edgar A. Brown Bldg
1205 Pendleton Street, Room 401
Columbia, SC 29201
Phone (803) 734-1900 or (800) 220-5370
www.scag.gov

Guardian Ad Litem Program
1205 Pendleton Street, Suite 447
Columbia, SC 29201
Phone (803) 734-1900 or (800) 220-5370
www.scag.gov

Mothers Against Drunk Drivers (MADD)
421 Mission Court
Irmo, SC 29063
Phone (803) 748-7333 or (800) 543-8692
www.madd.org/south-carolina

Office of the Attorney General
Victim Assistance Program
Rembert Dennis Bldg
1000 Assembly Street, Room 519
Columbia, SC 29201
Phone (803) 734-3739
www.scag.gov

Solicitor’s Office Victim Advocates
Each Solicitor’s office has a victim advocate who can be a good source of information and can keep you up-to-date as your case progresses through the criminal court. If a law enforcement victim advocate or other victim assistant has not already contacted you, you might want to call your solicitor’s office victim advocate and talk with them.

SC Coalition Against Domestic Violence and Sexual Assault (SCCADVASA)
Post Office Box 7776
Columbia, SC 29202
Phone (803) 256-2900
www.sccadvasa.org

SC Department of Corrections (SCDC)
Divisions of Victim Services
Post Office Box 21787
Columbia, SC 29221
Phone (803) 896-1733 or (800) 835-0304
www.doc.sc.gov/victim_services/victims.html

SC Department of Juvenile Justice
Division of Victim Services
Post Office Box 21069
Columbia, SC 29221
Phone (888) 224-6165
www.state.sc.us/djj/

SC Department of Probation, Parole & Pardon Services (SCPPPS)
Office of Victim Services
Post Office Box 207
Columbia, SC 29202
Phone (803) 734-9367 or (800) 551-418 for victims only
www.dppps.sc.gov/Victim-Services

SC Juvenile Parole Board Victim Services
100 Executive Center
Santee Building, Suite 103
Columbia, SC 29210
Phone (803) 896-5614

SC State Law Enforcement Division (SLED)
Post Office Box 21398
Columbia, SC 29221
Phone (803) 737-9600
www.sled.sc.gov

Solicitor’s Office Victim Advocates
Local law enforcement agencies have Victim Advocates. Members of South Carolina’s Law Enforcement Victim Advocate Association (LEVA) can be located through the South Carolina Victim Assistance Network at 803-750-1200 or on their website at www.scleva.org. Call your local law enforcement agency to speak to a Victim Advocate.
Victim Services (On and Off Campus)

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, USC Upstate will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and assistance in notifying appropriate local law enforcement. If a sexual assault, or rape should occur on campus, staff on scene, including University Police, will offer the victim a wide variety of services. This information regarding “resources” is not provided to infer that those resources are “crime reporting entities” for USC Upstate.

<table>
<thead>
<tr>
<th>ON CAMPUS</th>
<th>Employees</th>
<th>Students</th>
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<tbody>
<tr>
<td><strong>Counseling/Mental Health</strong></td>
<td></td>
<td>USC Upstate Counseling Services (864) 503-5195</td>
</tr>
<tr>
<td><strong>Health Services</strong></td>
<td></td>
<td>USC Upstate Health Services (864) 503-5191</td>
</tr>
<tr>
<td><strong>Title IX Coordinator</strong></td>
<td>(864) 503-5052</td>
<td>Title IX Coordinator (864) 503-5052</td>
</tr>
<tr>
<td><strong>Visa and Immigration Assistance/International Student Support and Services</strong></td>
<td>International Programs Coordinator (864) 503-5622</td>
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<tr>
<td><strong>Student Financial Aid</strong></td>
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<td>Financial Aid Office (864) 503-5349</td>
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<tr>
<td><strong>LGBTGA Advocacy and Education</strong></td>
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<td>Women’s Center (864) 503-5724</td>
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<td><strong>Women’s Center</strong></td>
<td></td>
<td>Women’s Center (864) 503-5724</td>
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<tr>
<td><strong>Pastoral Counseling</strong></td>
<td></td>
<td>Contact your individual faith leader or place of worship</td>
</tr>
<tr>
<td><strong>University Police Department</strong></td>
<td>Non-Emergency: (864) 503-7777 Emergency Phone: 911</td>
<td>Non-Emergency: (864) 503-7777 Emergency Phone: 911</td>
</tr>
<tr>
<td><strong>Dean of Students</strong></td>
<td></td>
<td>Dean of Students (864) 503-7350</td>
</tr>
<tr>
<td><strong>Victim Advocacy</strong></td>
<td>University Police Department (864) 503-7777</td>
<td>University Police Department (864) 503-7777</td>
</tr>
<tr>
<td><strong>Office of Multicultural Engagement</strong></td>
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<tr>
<td><strong>Support for Victims of Violence</strong></td>
<td>SAFE Homes Rape Crisis Coalition 236 Union Street Spartanburg, SC 29302 (864) 583-9803</td>
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### Facilitated Anonymous Reporting
A student can go to Counseling Services to submit an anonymous report. The amount of detail provided will determine the University's ability to investigate/respond.

### OFF CAMPUS

<table>
<thead>
<tr>
<th>Counseling/Mental Health</th>
<th>The McLaughlin Young Group (1) 800-633-3353</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Services</td>
<td>Spartanburg Regional Hospital (864) 560-6000</td>
</tr>
<tr>
<td>Victim Advocacy</td>
<td>Spartanburg Regional Hospital (864) 560-6000</td>
</tr>
<tr>
<td>Legal Assistance</td>
<td>148 E. Main Street Spartanburg, SC 29304 (864) 582-0369</td>
</tr>
<tr>
<td></td>
<td>148 E. Main Street Spartanburg, SC 29304 (864) 582-0369</td>
</tr>
<tr>
<td>City of Spartanburg Police Dept.</td>
<td>911 Spartanburg County Communications</td>
</tr>
<tr>
<td>Spartanburg County Sheriff’s Department</td>
<td>911 Spartanburg County Communications</td>
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Preservation of Evidence – Sexual Assault

Forensic evidence collection is best done within 72 hours of the assault and best collected immediately following an assault. Technological advancements are making it more likely to collect evidence even after 72 hours; however, it is important to remember that the more time passes between the sexual assault and reporting it to the police, the less likely it will be to collect physical evidence that may be very important to the prosecution of a criminal case.

1. Do not bathe, wash your hands, douche, urinate, defecate or change clothes or engage in any activity that may contaminate or destroy valuable evidence such as semen, saliva, hairs and blood. This includes eating, chewing gum, smoking, drinking, brushing teeth and gargling. Doing so may destroy evidence prior to receiving medical attention.
2. If you have to urinate, collect the urine in a clean jar with a lid and refrigerate the specimen until you can give it to a medical professional.
3. Do not wash your clothes, sheets or bedding or dispose of any items associated with the sexual assault.
4. Have a forensic sexual assault examination conducted by a Sexual Assault Nurse Examiner (SANE Nurse) at Spartanburg Regional Medical Center.
5. Even if you choose not to have a forensic sexual assault examination, you should see a doctor to be treated for sexually transmitted diseases and pregnancy.
6. If University Police is involved, or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. Police may gather bedding, linens or unlaunched clothing, and any other pertinent articles that may be used as evidence.
7. It is best to allow University Police to secure items in evidence containers, but if you are involved in transmission of items to the hospital, secure them in a clean paper bag or clean sheet to avoid contamination. Plastic bags or containers are not recommended.
8. If physical injuries are present, photograph or have them photographed with a date stamp of the photo. University Police and SANE Nurses have equipment to photograph injuries.
9. Record the names of any witnesses and their contact information. This information may be helpful as proof a crime occurred, to obtain an order of protection, or to prove of a campus policy violation.
10. Try to memorize details (e.g., physical description, names, license plate number, vehicle description etc.) or write down notes of details.
The Law Enforcement Process

Note: In most cases throughout the text of this folder, the masculine gender is used to represent both sexes, as is proper in formal writing. If you do not understand a term used in the text, consult the glossary (Words You Are Likely to Hear.)

Usually, your first contact with law enforcement will be through the dispatcher or the patrol officer. It is the patrol officer's job to respond to emergency situations and begin the investigation process (gathering information about the crime.) The patrol officer may play a major role in the investigation, but his work may be passed on to an investigator (or detective) who will be in charge of the investigation until the solicitor's office becomes involved in the case. The solicitor (or deputy solicitor), called district attorney in many states, is the attorney for the State. The police will conduct the investigation. The solicitor's office makes decisions about the prosecution of the case.

The person who takes photographs, searches for fingerprints, and collects items of evidence at the crime scene is the forensics officer (sometimes known as crime scene technician or criminologist), if your law enforcement agency has such a specialized officer. If you are the victim of an attack, you may actually be part of the "crime scene." Evidence may be on your person that needs to be collected (including clothing or samples taken by swabbing or scraping under the fingernails) or documented (such as by photographs.)

Some of the evidence that needs to be collected might require the service of a medical doctor or Forensic Nurse. In those cases, you will be required to go to a doctor's office or hospital. The doctor has a list of things he must do to collect evidence. This list is often called a “protocol.”

Anyone who has control over a person or property may give permission for the police to collect evidence. Sometimes when the police are not given permission to collect evidence, they must go to a judge to get a search warrant.

Anyone who has any information about your case is a potential witness. They might not have seen the crime committed, but what they know may help prosecute the case, and convict the offender.

The person who committed the crime is the offender or perpetrator. In the beginning, he is usually called the suspect. Once a warrant is issued charging him with the crime, he becomes the defendant. His attorney is the defense attorney. If the defendant cannot afford an attorney, the court may appoint one to represent him, or he may qualify to be represented by a defense attorney that is paid for by the taxpayers called a public defender.

Anyone who knowingly helps the offender commit the crime, but doesn't participate in the criminal act, is an accessory and also may be charged with a crime.

The criminal prosecution begins when the police begin efforts to arrest a suspect. Up until that point, the police are conducting an investigation.

The investigation may take several days or more until the case is solved, or it may never be solved. Your cooperation likely will be necessary throughout the investigation. However, your participation in the case may go on for much longer, perhaps years.

The person who will help you with your needs is the victim advocate. Your victim advocate may be at the police or sheriff's department, the solicitor's office, another governmental agency, or a private organization. You may have more than one victim advocate. The victim advocate’s job is to answer your questions, help you with filing necessary paperwork, keep you informed about the status of your case, and provide you with information about the resources that are available to you. All solicitors' offices and all law enforcement agencies are required to have victim advocates.

Our state has a Crime Victims' Ombudsman. If you have problems getting the service you need from people in the criminal justice system, you may want to contact the Ombudsman at 803-734-0357. The Ombudsman has a process in place to look into the problem you are having and help you navigate the criminal justice system.

Law enforcement agencies must provide victims, free of charge, the following:

- a copy of the initial incident report of the case,
- documents which describe your Constitutional rights as a crime victim,
- your responsibilities as a crime victim,
- local victim assistance contact information,
- social service providers,
- victim compensation information,
- rights concerning harassment and threats,
- assistance with creditors, landlords and employers,
- information concerning the status and progress of the case and investigation.

It is the responsibility of law enforcement to provide a copy of the incident report, free of charge.
The Criminal Court Process

Where you fit in the process. As a victim, witness, or the survivor of a victim, you may feel that you are not part of the process, but you are! Don't be afraid to ask all the questions you have or to be kept informed each step of the way. You will be asked or allowed to participate at various points throughout the prosecution of the case and later during the defendant's incarceration, if he is convicted. You have rights, which are stated in the South Carolina State Constitution (and in this folder). If you are a victim, or the survivor of a victim, how the crime has affected you is a very important part of the case.

Warrant and arrest. If a suspect has been positively identified, you, a witness, or a police officer may be the person who signs the arrest warrant that charges the suspect with the crime. The police will be able to tell you who must sign the warrant. If you are to sign the warrant, you will have to go to an office to do so. It may be the magistrate's office, an office at the county courthouse, or at the city court. You will speak with a judge or a clerk who will prepare the warrant. You will be required to swear that the crime happened and that the suspect did the crime. Whoever listens to what you have to say must be satisfied that there is probable cause to issue the warrant. If they believe what you tell them, a warrant will be issued at that time. Once the arrest warrant is issued, a police officer will serve it (read and give a copy) to the defendant, the person accused of the crime. If the defendant is in jail, the warrant will be served there. If he is not in jail, a police officer must find the defendant, serve the arrest warrant, take the defendant into custody, and take him to jail. At the jail, the defendant will be photographed, fingerprinted, and placed in a cell. Usually, as soon as he can after he is arrested, the defendant contacts his attorney to help him with his defense against the charges made against him. In less serious or juvenile cases, the defendant may be released instead of being kept in custody. The defendant may be required to post bond before he is released. The purpose of the bond is to assure that the defendant will appear in court. It is not intended to make it impossible for the defendant to get out of jail. You have a right to be notified of and to be present at a bond hearing. If you are not notified, please call SCVAN or the Office of the Crime Victims’ Ombudsman at 803-734-0357. Very often the defendant will be out of jail in a matter of hours after he is arrested. Typically within a day or two after the arrest warrant is served, the defendant is brought before a judge to be arraigned (formally charged.)

Attorneys. There are two kinds of attorneys in criminal cases: the solicitor (or deputy solicitor or assistant solicitor), who prosecutes the case for the State, and the defense attorney, who represents the defendant. However, if you are considering a civil lawsuit regarding the case and you have retained an attorney, he may want to follow the progress of the criminal case. Your attorney will not participate in the criminal trial, but you do have the right to representation throughout the criminal justice process if you choose to hire a private attorney. The victim advocate in the solicitor's office will keep you informed of the case's progress. You do not have to talk with the defense attorney prior to trial. However, he may request to interview you. Before you do, please discuss whether or not you should speak to him with the solicitor handling your case. Always keep the solicitor's office informed before you start a civil case.

Preliminary Hearing. Before a case goes to trial, it typically goes through at least two hearings. The first is the preliminary hearing. The purpose of the preliminary hearing is to present the basic elements of the case so that the judge may decide whether or not there is probable cause and sufficient reason to go forward with the case and to continue to hold the defendant to the requirements of his bond. Sometimes the defendant chooses not to be present at the preliminary hearing. However, the defense attorney may be present at the hearing. He has a right to know what evidence exists against his client. This is called the "right of discovery." The defense attorney may ask questions at the preliminary hearing. The preliminary hearing is open to the public. You do not need to attend unless the police or solicitor asks you to. You might wish to attend in order to follow the progress of the case, and you have that right.

The Plea. After probable cause is established at a preliminary hearing, the defendant is formally arraigned and charged with the crime and advised of his rights. At the arraignment, the defendant pleads either "guilty" or "not guilty." Many plead "guilty." If he pleads "guilty," he may be sentenced immediately or at some future time. He may change his plea up to the point where the judge accepts his plea of "guilty." If he pleads "not guilty," his case will go to trial. He may change his plea to "guilty" up to the point where either a judge or jury declares a verdict. The vast majority of criminal cases in South Carolina are handled through guilty pleas, and not trials.

Grand Jury. The second hearing is held before the Grand Jury, a group of eighteen citizens. Grand Jury hearings are not open to the public. The grand jury listens to the basic elements of lots of cases, one right after the other. The solicitor may be the only one who presents your case, or several witnesses may testify. The solicitor might ask you to testify. If the Grand Jury issues a "No Bill," the case will not go to trial. If the Grand Jury issues a "True
Bill" (or indictment), the case will be handled in the General Sessions Court.

Trials. A trial may be held before both a judge and jury (a jury trial) or before a judge with no jury (a bench trial.) The more serious criminal trials are held in General Sessions court. The judge or jury must listen to all the facts of the case and decide whether or not the defendant is guilty of the crime. If the defendant is found "not guilty," he will be released from custody. If the defendant is found "guilty," he may be sentenced right then or at a later time. Almost always the judge decides the sentence. Under South Carolina law, the jury decides the sentence only in cases in which the solicitor asks for the death penalty (called "capital" cases).

Victim Impact Statement (VIS.) The VIS is a voluntary, written or oral statement by the victim telling how the crime has affected the victim's life and family. The VIS form has a place for you to request notification of court hearings and other proceedings: post-sentence hearings affecting probation, parole, and release; and notification in the event the offender escapes. The VIS is used by the solicitor to prepare a sentence recommendation and by the judge to determine the sentence and restitution, if any. Depending on the sentence, your VIS also may be sent to the SC Department of Corrections and/or Probation, Parole, and Pardon Services. The Parole Board may use your VIS to determine restitution. Make sure that you ask for and complete a VIS. This insures your voice is heard and that the criminal justice system knows how the crime affected you. Make sure it is filed with the solicitor's office if your case is going forward to General Sessions Court.

Completing the VIS may be the most important thing you do.

Your victim advocate is required to advise "all victims of their right to submit to the court, orally or in writing at the victim's option, a victim impact statement to be considered by the judge at the sentencing or disposition hearing in general sessions court and at a parole hearing" and provide you with a copy of the VIS form (SC Code §16-3-1550.) You may make your statement orally in court, if you wish, instead of in writing, but a written VIS can be sent places where it is useful, such as to the SC Department of Corrections (SCDC), the Department of Probation, Parole, and Pardon Services (DPPPS), and the Parole and Community Corrections Board to be considered every time the defendant has a hearing.

Pre-trial intervention (PTI) The defendant may be eligible for the Pre-trial Intervention Program. The program serves mostly first-time offenders charged with a less serious offense. However, the solicitor may request that any defendant be allowed to participate. The defendant pays for this program. It allows him to make restitution (to pay for the damage or injury he has caused) and to attend classes that teach him the impact of his behavior and how to avoid repeating his offense. You should be notified when the defendant applies for PTI and be allowed to express your opinion to the solicitor regarding the defendant's participation. If he successfully completes PTI, his case will be dismissed. If he fails to complete PTI, his case will be sent back to court.

Sentencing. After a plea of "guilty" is entered or a verdict of "guilty" is reached in the case, the judge will sentence the defendant (except in death penalty cases, in which the jury decides the sentence.) The judge will consider all the information he has, including your VIS, as well as the information the defense presents.

Testifying in Court. Testifying means telling the truth. Always tell the truth. If you learn that you will be asked to testify, you will want to talk with the solicitor about what to expect. The solicitor's office victim advocate may help you prepare to testify. In court, all you need to do is tell what you know and answer the questions you are asked. You might be nervous and the defense attorney might try to upset you, but do your best to stay calm, take your time, and answer questions with simple, truthful answers.

Criminal Law. The purpose of criminal law is to enforce the laws regarding how people behave. Those who disobey the criminal law must answer for their crimes and be made to obey the law. Both the State of South Carolina and the United States government have laws that define crimes. Most criminal cases are tried in state courts.

Constitutional Law. The Constitution of the United States (and its amendments, or changes) guarantees the rights of citizens. One who is charged with a crime is presumed innocents until he is proven guilty beyond a reasonable doubt. Crime Victims have rights in our State Constitution.

Definitions of crimes. The definitions of crimes are found in the statutes (laws) that make up the criminal code and in the common law. The common law is the entire set of court decisions of both the United States and England.

Jurisdiction. In order for a court to hear a case, it must have jurisdiction, the authority to hear it and make a decision. Which court has jurisdiction is determined by what kind of crime was committed and where it happened.

Juveniles. Juveniles (persons 16 years of age and younger) who commit crimes usually are not tried in
criminal court. Instead the juvenile's case is heard in family court. There is another section in this folder dealing with juvenile cases.

**Final Note**
There is no way to predict the outcome of the criminal court process. What is important for you is to go through the process to its conclusion. Once a defendant found guilty is sentenced, you may register to be notified about hearings regarding probation and parole and request the solicitor's office and the Attorney General's Office to keep you posted regarding the phases of the appeals process.

### Sentencing, Probation, Incarceration, Parole, and Pardon

**Sentencing.** Once a defendant pleads "guilty" or is found "guilty" by a jury, the judge will sentence him. A defendant may be sentenced to time in prison, a fine, restitution, community service, a variety of other activities, or any combination of these. If the defendant is sentenced to prison, the judge might suspend that sentence and place the defendant on probation.

**Probation.** As an alternative to incarceration (locked up in prison as an inmate), a circuit judge may suspend an offender’s sentence and allow him to serve that sentence in the community under the supervision of the South Carolina Department of Probation, Parole, and Pardon Services (SCDPPPS). As conditions of probation, the offender may have to meet certain requirements such as: meet regularly with a probation officer, undergo counseling, perform community service, make restitution to the victim(s), or have no contact with victim/victim's family. If he/she fails to meet any of the requirements, he/she may be arrested for violating the conditions of probation. At a violation hearing, the case can be continued (possibly with more restrictions) or the case may be revoked, which means the offender will be sent to jail or the South Carolina Department of Corrections, depending on the amount of the sentence that was revoked. If you think an offender might be violating the terms of probation or have questions concerning the supervision of the offender, you can contact SCDPPPS (see Resources List.)

**Incarceration.** While the convicted offender is incarcerated, victims and witnesses usually feel confident that they don't have to be concerned about his whereabouts or activities. However, nearly all inmates eventually are released, after they serve their sentences or go on parole. The amount of time an inmate stays in prison may be shortened by his earning credits for good behavior, work activity, completing education classes, and/or receiving parole. If an inmate is sentenced to more than 90 days at the Department of Corrections, you can apply to the SC Department of Corrections (SCDC) Victim/Witness Notification Program (see Resources List) to be kept informed in the event of his escape or potential release. If you do not register, you will not be notified.

**Parole.** Inmates incarcerated on or after January 1, 1996 may not be eligible for parole due to the Truth-in-Sentencing Bill. Inmates incarcerated before this date may be eligible for parole after serving the required portion (which is determined by state law) of the sentence. If the inmate is serving for a violent (by statute) offense, he will be eligible after serving 1/3 of the sentence less any earned credits. For a non-violent (by statute) offense, he will be eligible after serving 1/4 of the sentence less any earned credits. Some inmates may not be eligible for parole if they are deemed to be subsequent violent offenders by the legal department at SCDPPPS.

You must register with SCDPPPS if you wish to be notified of parole hearings. Provided SCDPPPS has your current address, you will receive written notification 30 days prior to the parole hearing date. You may call SCDPPPS’ Office for Victim Services (see Resources List) to voice your opposition to parole or you may write letters or submit petitions from the community. Some victims are allowed by law to submit a video tape of their testimony. You may also attend the parole hearing and address the Parole Board in person if you wish to do so.

It is your responsibility to notify SCDC or DPPPS of any changes of your address or telephone number.

The Parole and Pardon Board meets at SCDPPPS' administrative offices located at 2221 Devine Street in Columbia, SC to review cases for parole. Victims who wish to attend the parole hearings will also go to this location, or to a location in Charleston where you can participate in the hearing via videoconferencing (contact SCDPPPS victim services department to arrange details). The offender will remain in prison during the hearing. The Board will see and talk to the inmate and his family via videoconferencing.

If parole is denied, inmates may have another hearing in one year for non-violent offenses or in two years for violent (by statute) offenses, provided they do not "max-out" their sentence before then.

If an inmate is granted parole, he will be released under the supervision of a parole officer and may have many of the same requirements and restrictions as an offender on
probation. If he violates the terms of parole, a revocation hearing may be held and he may be sent back to prison.

**Pardons.** The South Carolina Parole and Pardon Board has the authority to grant or deny a pardon - not the Governor. Offenders who have completed their probationary period or who have been on parole for five years may apply for a pardon. If the length of parole supervision is less than five years, the offender can apply for a pardon when the parole expires. Incarcerated offenders can only apply for a pardon under extraordinary circumstances (ex. Terminal illness). If an individual's request for a pardon is denied, he may apply again in one year. There is no limit on the number of times an individual can apply.

**The Death Penalty.** Cases in which the State requests the death penalty are called capital cases. In capital case trials, the jury decides either the guilt or innocence of the defendant as well as his sentence. If the defendant is found "guilty," the trial will go into a sentencing phase, which is much like the original trial. His sentence may be either life in prison or death. In the event that an execution is carried out, three representatives of the family of a victim of the crime for which a death penalty was imposed may attend the execution. If there are multiple victims, the Department of Corrections may reduce the number of family representatives to one person for each victim's family.

The inmate becomes an “applicant” when a Post Conviction Relief (PCR) hearing is applied for. A public hearing is held in the local county of conviction in front of a circuit court judge and the applicant can be present. During this proceeding the applicant is requesting a new trial based on allegations of legal error or new evidence. In non-death penalty cases, the applicant can also use this hearing to request that his sentence be reduced by the Department of Corrections. If a circuit court judge does not grant PCR, the applicant can file a Petition for Certiorari in the SC Supreme Court, and then the US Supreme Court, to appeal the circuit court decision. Having exhausted avenues of relief through state courts, attorneys for the convicted may file an appeal in federal court, requesting the conviction be overturned. This action is called Writ of Habeas Corpus. The federal courts available in Habeas Corpus are the US District Court, the Fourth Circuit Court of Appeals, and the US Supreme Court. Federal appeals are seldom argued orally. Instead, briefs (legal documents) are filed on each party's behalf. It is important to remember that convictions are reversed and remanded (to be considered again for retrial) based on technicalities, not on guilt or innocence issues.

**Offenses by Juveniles**

Juveniles usually enter the juvenile justice system in South Carolina when they’re taken into custody by law enforcement or when they’re referred to DJJ by a Circuit Solicitor or a school. At this stage, a juvenile is usually interviewed by personnel at a DJJ county office (DJJ has offices in 43 of South Carolina's 46 counties). Law enforcement might also elect to send the juvenile to a South Carolina juvenile detention center, pending a hearing. After county office or detention center personnel have interviewed a juvenile, DJJ makes recommendations to the Circuit Solicitor's office regarding the case. The Solicitor has a number of options available when deciding how to pursue a case. A Solicitor may choose to divert a juvenile to a community program (such as a drug court or juvenile arbitration program) or require the juvenile to make restitution for the offense. Solicitors may also choose to proceed with prosecution or to dismiss a case entirely.

If a Solicitor chooses to prosecute, the next stage of the process involves the family court. A family court judge is charged with determining the guilt or innocence of a juvenile and with sentencing those juveniles “adjudicated delinquent.” (found guilty) Often a judge will request a
Restitution evaluation of the child before making his final ruling, or prior to commitment. This involves psychological, social, and educational evaluations conducted either in the community or at one of DJJ’s three regional evaluation centers. This evaluation helps the judge decide how to proceed in the best interests of the child. A family court judge may find the juvenile “not delinquent” (not guilty) or “delinquent” (guilty). If found delinquent, the juvenile may be put on probation or given a “determinant (fixed amount of time) or an "indeterminate" commitment.

If a juvenile receives an indeterminate commitment, he or she will be held for an indefinite period of time, up to age 21. Upon commitment, a juvenile will be given a time range or "guideline," determined by the state Board of Juvenile Parole (for all felonies and select misdemeanors) or DJJ’s own release authority (for most misdemeanors and all status offenses). This range is based on the severity of the juvenile's offense and his history of previous offenses.

These guidelines can run anywhere from 1-3 months up to 36-54 months. The Board and DJJ use these guidelines – along with an evaluation of the juvenile's behavior and progress – to determine the length of incarceration. Juveniles may remain incarcerated beyond their guideline (up to their 21st birthday). They may also be paroled prior to their minimum guideline for exceptional behavior and progress.

Juveniles may be granted conditional or unconditional releases. A conditional release might involve requiring the juvenile to complete a local aftercare program or program at a wilderness camp or group home. A conditional release also involves a period of parole supervision. DJJ county officers supervise juveniles on parole, much as they supervise juveniles on probation.

For more detailed information on the juvenile justice process, visit the website at: www.state.sc.us/djj/process.html

Compensation and Restitution

Restitution. The judge or the Parole Board may order a convicted defendant to repay you for losses suffered as a result of the crime. In order for the judge or Parole Board to know what losses you have suffered, you must have completed a Victim Impact Statement (VIS.) Your victim advocate will help you complete the VIS. However, some losses may be the kind that cannot be repaid. The defendant may have a limited ability to make monetary restitution (he may have no money, may be unemployable, or he may be in prison for many years.) Therefore, restitution may not be complete.

Restitution payments may be stretched out over several years. Payments are not paid by the offender directly to the victim but are paid to the clerk of court or the SC Department of Probation, Parole, and Pardon Services who issues a restitution check to the victim.

The SC Crime Victims' Compensation Fund. The South Carolina Crime Victims Compensation Fund is a financial assistance program designed to help victims with expenses directly resulting from a crime, and not covered by other payment sources. The Fund is administered by the Office of the Attorney General, Department of Crime Victim Compensation (DCVC), and is governed by state and federal laws.

Expenses reimbursed by DCVC must be related to the injury or death resulting from the criminal victimization and a law enforcement incident report is required for all compensation cases. The maximum payout is $15,000 for medical or dental related costs including transportation (mileage) to doctor appointments, or counseling (from a licensed professional therapist). A therapist must confirm that the trauma resulted from the crime and payment is based on a fee schedule. Burial/funeral bills for a deceased victim is limited to a reimbursement amount of $6,500. A death certificate is required.

Lost Wages / Loss of Support is considered if the victim has not been able to work for at least two weeks in a row because of the injuries or to take care of a victim. Also, the victim, the victim’s dependent or a spouse may be eligible. We encourage all victims to call our office to see if they are eligible for Loss of Support payments. There is a maximum amount of $7,500 for all lost wage claims. A Physician’s/ Employer’s Report and a Tax Return Transcript may be required.

Please have provider submit all crime related medical claim forms for payment consideration within 12 months from the date of service. However, after 18 months if there is no activity the victim’s claim will be closed. Please note, cases may be reopened on a case by case basis depending upon the circumstances.

DCVC cannot pay for property damage (to include crime scene cleanup [contact SCVAN for this service] or items taken as evidence), any expenses related to going to court (to include legal fees or transportation), or “pain and suffering.

The Department of Crime Victim Compensation is the payer of last resort. If the victim has insurance, Medicare, or Medicaid these sources must be used first. It
is the provider’s responsibility to ensure that other avenues of payment are explored and used.

The eligibility requirements to receive services from DCVC are:

- The crime must occur in South Carolina
- The victim must sustain direct injury - (Physical or Psychological)
- South Carolina law requires DCVC to consider contributory or illegal behavior when making eligibility determinations
- The victim/claimant must cooperate with DCVC and Law Enforcement
- The crime must be reported within 48 hours (May be waived for good cause)
- The claim must be filed within 180 days (May be waived for good cause)
- The claim must be filed within 4 years of the incident. This requirement may be waived and extended in cases involving criminal sexual conduct of a minor if the victim is now an adult and there has been a diagnosed manifestation of injury.

Please note, if the victim was incarcerated in any penal system at the time of the victimization, no award of any kind can be made by law.

For additional information about the Office of the Attorney General, Department of Crime Victim Compensation program, benefits and services, please call 803.734.1900 or (Victims’ Only) 800.220.5370 or go to www.sova.sc.gov

Suing the defendant. In addition to going through the criminal court process, you may consider suing the defendant for damages. This takes place in civil court. These matters are heard at your county courthouse, probably the same place the criminal trial did or will take place, but in a somewhat different kind of trial. In order to determine whether or not you should sue, you will need to discuss the matter with the attorney of your choice. Before you decide whether or not to proceed with a civil action, please confer with the prosecutor of your criminal case first. You may contact the SC Bar Lawyer Referral Service or SCVAN to help you find a civil attorney.

Other Financial Needs. Your victim advocate or SCVAN staff will gladly help you find additional sources of financial assistance if you feel additional resources are necessary. There are many organizations that can provide you with free or inexpensive clothing, food, furniture, medicine, doctor and dental care, and other vital services.

When Children are Victims

If your child has been the victim of a crime, he or she will go through much the same procedure as an adult victim. However, your child may not understand much of what is happening. Children think in shorter time spans than adults, so it isn't always necessary to explain what will be happening months in advance. A brief explanation of what is about to happen at each point, and your assurance that you'll be there with them, will help them through each step of the process. In addition to talking with a police officer to report the incident, they may be interviewed by a juvenile officer or other investigator, if your law enforcement agency has an investigations division.

Perpetrators may be strangers, friends or acquaintances, other juveniles, parents, other relatives, temporary care providers (e.g., teachers, child care workers, baby sitters), foster parents, or others. The kind of perpetrator may have significant bearing on the steps the investigation takes.

If the alleged perpetrator is anyone living in the same home as the child (and in certain other circumstances), the Department of Social Services may conduct its own investigation and interview family members and acquaintances. Because children often find it difficult to talk in front of a large group of strange people, under certain conditions the judge might allow them to testify by videotaped recording.

Every law enforcement department in SC has on its staff a “victim advocate.” This person will serve as your liaison between the investigator, the court, and you. Please call your victim advocate for help with filling out compensation forms, victim impact statements, finding qualified counselors in your area, and helping you with any problems you may have with school, your employer, etc. Your advocate can help you get answers to questions you may have about the progress of your case and, although most child victims never testify in court, can help you familiarize your child with courtroom procedures (if necessary).

At least one more interview, this time with the solicitor (the person who will prosecute the case), will be necessary prior to the child's testifying for court. Some counties have children's centers, which greatly reduce the number of times your child will be interviewed. At children's centers, all the interviewers gather together to do their work in an atmosphere that is friendlier for the child.

Part of the evidence gathering process may include a medical examination, some tests, and photographs. These
are for both your child's benefit and to build a criminal case for court.

Your solicitor's office may have individuals specially trained to handle cases in which children are victims of crime. During this time, your child needs all the love and support you can give. Your victim advocate will be a good source of help and information about what lies ahead.

You may want special counseling for your child. Ask your victim advocate where the best qualified child-counseling services are located. You can find a trauma-trained therapist in your area by checking this website: http://academicdepartments.musc.edu/projectbest/roster/roster.htm.

The State Office of Victim Assistance provides funds for counseling for victims of crime. Your advocate will help you fill out compensation forms. Your child may need to tell his or her story several times. Ask your child's counselor about the best way to handle discussing the crime with your child. You should be careful not to encourage your child to say things that he or she thinks will please you, but do encourage your child to tell everything that happened to him or her, and tell it truthfully.

Finding Your Way Through Difficult Times

Sometimes we lead our emotions. Sometimes they lead us. Feelings are natural. Extreme situations may trigger unusual emotions. Your victimization may have been an extreme situation. You may be experiencing some unusual emotions. Grief and fear are two extreme emotions. Following the death of his wife, the writer C. S. Lewis said that he never before had realized that grief was so much like fear (A Grief Observed).

You may not be able to say exactly what you feel. Your feelings may change unexpectedly. Lewis wrote about what he called "a vague sense of wrongness, something amiss." In the middle of his doing some daily routine, familiar surroundings would seem to change, become unfamiliar, and his feelings would overtake him. You must realize that you are not helpless. We all have resources within us to get through difficult times. But in addition to that, there are many other resources available to crime victims, thanks to the efforts of victim advocates, many of whom were also victims/survivors.

The road you are on now is the road to recovery and restoration. Your foot hit that road immediately following your victimization, even though you may have felt that you had been dropped in a foreign land. Each victim's method of travel is a little different, but the road is well-travelled. There are maps, signs, guides, fellow-travelers, and signs along the way that you will encounter. These are all resources to guide you to your destination. Some resources are people, books and tapes and activities.

A guide is a welcome friend to a traveler. Your guide is your victim advocate. You've already met one, the one who gave you this folder. You may find others along the way.

Every solicitor's office, police department and sheriff's office in South Carolina has a victim advocate. You may consider these your original guides.

If you are not contacted by a victim advocate, they can be located by calling the law enforcement agency that responded to you at the time of the crime, or by calling SCVAN at (888) 852-1900, or the Office of the Crime Victims' Ombudsman at 803-734-0357. These advocates will help you do many of the things you must do as you follow the criminal justice process and travel the road to recovery and restoration. They also can guide you to other resources and other guides. The other guides may be other victim advocates, or they may be professionals, such as counselors, whose services may be useful to you. Remember that your victim advocate is helping lots of people like you, so use the resources to which they refer you. In addition to government agencies, there are many private organizations that are set up to help crime victims. These include rape crisis centers, programs and shelters for victims of domestic violence (violence within a home or family), Mothers Against Drunk Drivers (MADD), Parents of Murdered Children, and centers that help those who have missing children. Centers for religious worship, such as churches or synagogues, may offer help and counseling. Counselors should be "Trauma Trained" therapists so they can effectively help you deal with the after effects of the traumatic event you experienced.

Included in this folder is a list of resources prepared by the South Carolina Victim Assistance Network (SCVAN.) You may also “google” to search the internet for help dealing with the specific type of crime you have experienced. Some of the people and agencies listed there may not be near you. However, if you call or write them, they may be able to put you in touch with someone near you. Your victim advocate already may have given you a list of local resources. Use the ones you need.
Laws That Affect You

The following summarizes the law (§ 16-3-1506, et seq.) that describes the responsibilities of the criminal justice system to you, as a crime victim (whether it be law enforcement, courts, prosecutors, the Attorney General, jails, other departments of confinement, the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Juvenile Parole Board, and the Department of Juvenile Justice)

First of all, we ask YOU to help us keep you informed.

- Responsibilities of Victims and Prosecution Witnesses:
  - Keep agencies apprised of your legal name, MAILING address, and phone number.
  - In order to receive restitution, you must provide the solicitor or judge details of the financial impact of the crime upon you.
  - Notify prosecutor or judge of your desire to be present for hearings.
  - Submit your Victim Impact Statement in a timely manner to your Victim Advocate.
  - Notify the solicitor of your desire to make an oral statement in court before sentencing.

The following are what you, as a crime victim, can expect from the criminal justice system:

- Upon Report of Crime, Law Enforcement has the Following Duties to Victims:
  - Provide you with a free copy of incident report.
  - Provide you with a description of your rights, services available to you, and procedures if you are harassed or threatened.
  - Assist you with filling out SOVA compensation and other social service applications.
  - Assist with you with problems with creditors, employers, landlords and schools.
  - Inform you of the status and progress of case and investigation.
  - Provide you with transportation to and protection in the courthouse.

- Upon Arrest or Pick-up, the Appropriate Agency has the Following Duties to Victims:
  - Notify you of the arrest or pick up of defendant.
  - Notify you in advance of pretrial release proceedings.
  - Provide you with information about victim assistance agencies.
  - Notify you before proceeding with bail/bond/detention hearings, and verify that before a judge.
  - Impose measures to protect you as a condition of defendant's pre-trial release.
  - Notify you in advance of preliminary hearings.

- Upon Release, Transfer or Escape, a Department or Agency Having Custody of a Defendant Must:
  - Notify you of any release, transfer or escape by the defendant.

- Upon Referral of Case to Summary Court for Disposition, the Summary Court has the Following Duties to Victims:
  - Notify of you of your rights and about the practices and procedures of the Court.
  - Provide you with a Victim Impact Statement form.
  - Return your personal property in a timely manner.
  - Recognize and protect your rights.

- Upon Referral of Offender to Department of Juvenile Justice, DJJ has the Following Duties to Victims:
  - Inform and confer with you before taking action.
  - Inform you of the status and progress of case.

Upon Referral of Case for Disposition in General Sessions or Family Court, the Appropriate Agency (usually the prosecuting agency) has the following Duties to Victims:

- Provide you with an Victim Impact Statement form and assist you in completing it.
- Inform you of practices and procedures of the criminal justice system.
- Inform you of your right to legal counsel.
- Return your personal property in a timely manner.
- Inform you of compensation, fees, financial assistance and assist with applications.
- Inform you of status and progress of case.
- Talk with you regarding decisions on handling and disposition of your case.
- Notify you in advance of each hearing.
- Assist with creditors, employers, schools and landlords.
- Respond actively to threats and intimidation.
- Minimize your inconvenience and familiarize you with the procedures in court and practices within the criminal justice system.
- Refer you to appropriate service and assistance agencies.

Laws that Provide for Protection of Your Constitutional Rights

- Employers must not retaliate, suspend or reduce your wages or benefits if you are subpoenaed to court.
- Victims and witnesses may not be sequestered (kept out) of the courtroom.
- Victims have the right to a reasonable disposition and a prompt and final conclusion of their case.
- Law enforcement and prosecutors must have separate waiting areas for you and defendants and their witnesses.
The Court must recognize your rights as diligently as those of the defendant.

The Court must notify you of all proceedings in a timely manner. If notice was not given in a timely manner, hearings must be delayed.

The Court must treat sensitively witnesses who have special needs (elderly, handicapped, children) by using closed or taped sessions.

Judges must hear or review all victim impact statements before sentencing.

Judges must address the issue of restitution.

Judges must order reasonable expert witness fees and reimbursement to victims of reasonable out-of-pocket expenses associated with complying with a subpoena to testify.

Prosecutors must forward victim impact statements and victim contact information to Department of Corrections, SCDPPPS, DJJ, and/or the Juvenile Parole Board. All victim information must be kept confidential.

Prosecutors must file the Victim Impact Statement with all indictments.

Prosecutors must inform you about your responsibility to provide your current contact information to all agencies that may deal with the offender.

Prosecutors must inform you about procedures for the collection of restitution, fees and expenses, and provide you with contact information for criminal justice agencies that can assist you with collection.

South Carolina Victims’ Bill of Rights

(A) To preserve and protect victims’ rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

1. be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute;

2. be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;

3. be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;

4. be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;

5. be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;

6. be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;

7. confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition;

8. have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;

9. receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury including both adult and juvenile offenders;

10. be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;

11. a reasonable disposition and prompt and final conclusion of the case;

12. have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims’ rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.
Words You Are Likely To Hear

Acquittal - A verdict of "not guilty."

Advocate (noun) - One who speaks for and helps someone else. A victim advocate is someone trained and dedicated to serve those who are victims of crime, family members of victims of crime, and witnesses to crime. An advocate may be a paid professional of a government or private agency or a volunteer.

Appeal - The transfer of a case from a lower court to a higher court (appellate court) for a new hearing on the case.

Arraignment - The time when a suspect appears before a judge and is charged with a crime. Arraignment usually occurs shortly after the suspect has been arrested and served a warrant or after a preliminary hearing.

Bail or bond - Money or property that a defendant puts up as a guarantee that he will appear in court. Not all defendants are required to put up bail. Some are given personal recognizance (PR) bonds.

Certiorari (pronounced: ser-shee-ah-rah-ree, usually "writ of certiorari," sometimes "writ of cert") - A writ from a higher court to a lower court requesting the records of a case for review.

Clemency - Mercy or leniency. Often refers to a judge's giving a lighter sentence to a defendant because of particular circumstances.

Competent to stand trial (or "legally competent") - A decision by the court that a defendant is able to stand trial (usually following an examination by a doctor to find out his mental condition).

Disposition - The final result of the case.

Defendant - A person arraigned and charged with a crime.

Defense attorney - The lawyer who speaks for the defendant and represents his interest in court.

Discovery - The right of the defendant to know what evidence the State has against him.

Expungement - An expungement is a court order that removes something from your criminal record. It is also called an Order for Destruction of Arrest Records. Expungement works only for minor or first-time offenses. Major offenses cannot be expunged.

Family Court - A county court that handles cases involving families and juveniles.

General Sessions (Circuit) Court - The higher level of county court, where serious crimes are tried.

Grand Jury - A jury of eighteen people who listen to the evidence and decide whether or not a case should go on to General Sessions Court. Their meetings are conducted in secret. The Grand Jury may give a "true bill" (indictment) or a "no bill."

No Bill - A conclusion by a Grand Jury that a case should not be tried.

True Bill or Indictment - A conclusion by a Grand Jury that a case should be tried.

Habeas Corpus (pronounced: hay-bee-us kor-pus) - One of a variety of writs that may be issued to bring a person before a court or judge. Its purpose is to release someone from unlawful restraint or imprisonment.

"Hung jury" - The situation where a jury cannot all agree on a verdict. When this happens, the case may be tried again.

Incident Report - A police report about something that happened. Additional reports about the same happening are called Supplemental Reports.

Indictment (pronounced: in-dite-ment) - See Grand Jury, True Bill.

Jury - (usually refers to the Petit jury) A group of men and women (usually 12) who must listen to and watch the trial and decide whether or not the defendant is guilty.

Jury Pool - A group of randomly chosen citizens from which jurors (people on a jury) are selected.

Juvenile - Usually an offender under the age of 17.

Judge - The person in charge of the courtroom and the trial.

Magistrate - The judge in the first (lower) level of county court.

Nolle pros - (pronounced: nahl pross) The voluntary withdrawal of criminal charges by the prosecuting attorney.

Objection - An attorney's telling the court that he believes someone has broken a rule of the court.

Pardon - An act by a judge, court, governor, or other authority that releases the person pardoned from punishment for the crime he committed. Often, pardon provides for expungement (wiping clean) of the offender's criminal record on that particular crime.

Parole - The conditional early release of a prisoner. If a prisoner obeys the conditions of his release, he won't have to serve the remainder of his sentence in prison. If he does not, he may be sent back to prison.

Petition - A formal, written request for a court or judge to do something, for example, a petition for an appeal.

Plea - The defendant's answer to the charge against him. If he pleads "guilty," a trial is not necessary. He may plead guilty to a less serious charge than the one for which he was indicted. If he pleads "not guilty," the case will probably be tried in court.

A Guilty Plea - A defendant's telling the court that he committed the crime.

A Not Guilty Plea - A defendant's telling the court that he did not commit the crime.

Preliminary Hearing - A hearing before a judge to determine if a case has probable cause to be tried and should be sent to General Sessions Court. The defense attorney uses this hearing to find out what evidence the State has against the defendant (see "Discovery.")

Pre-Trial Conference - A meeting among you, other witnesses, and the solicitor or deputy solicitor prior to the trial. You will be able to discuss the case and ask questions.

Probable Cause - Evidence that would lead a reasonable person to believe that a crime was committed by the person accused.

Probation - Releasing a convicted offender instead of sending him to prison. An offender on probation must agree to follow certain guidelines and limits. If he "violates probation," that is, fails to keep the agreement, he may be sent to prison.
Words You Are Likely To Hear

**Reasonable Doubt** - Doubt based on a good reason. If a jury has reasonable doubt that the defendant committed the crime, the jury must find him not guilty.

**Recess** - "Time out" in a trial. It may be brief (as for lunch), last overnight, over the weekend, or longer.

**Restitution** – payment made by an offender giving compensation for loss, damage, or injury caused.

**Revocation** (of bond or probation) - The withdrawing (taking back) of bond or probation when the defendant fails to obey the requirements of bond or probation. For example, a defendant released on bond or probation may be required to stay within the state. If he leaves the state, his bond or probation may be revoked, and he may be locked up in jail or prison.

**Sentence** - The punishment or legal consequences given to a convicted defendant.

**Solicitor** - An attorney who prosecutes serious crimes. In other states, they are usually called District Attorneys.

**State** - The people of South Carolina, usually represented in court by the Solicitor.

**Subpoena** - A court order for someone to appear in court.

**Testimony** - The facts as stated by a witness. To give testimony is to "testify."

**Trial** - The presentation of the facts of a case in court before a judge (bench trial) or a judge and jury (jury trial), ending with a decision about the defendant's guilt.

**Verdict** - The decision by a judge or jury.

**Witness** - In court, a witness is a person who testifies in court. A witness to a crime is a person who sees, hears, or notices something that has to do with the crime.

**Writ** - A written order issued by a court commanding someone to do or stop doing a particular act.
USC Upstate Sexual Misconduct & Sexual Harassment Resolution Procedures

Purpose
The University of South Carolina-Upstate strictly prohibits stalking, intimate partner violence, sexual harassment, or any other kind of sexual misconduct. This policy addresses what the university does to provide training, prevent such misconduct, offer support to complainants, and adjudicate allegations of misconduct.

Definitions
Clery Act: The Clery Act is a federal law requiring colleges and universities participating in federal financial aid programs to maintain and disclose campus crime statistics and security information.

Coercion: A tactic used by a respondent to intimidate, trick or force someone to have sex with him or her without physical force. Examples of coercion: 1. Verbal-Making statements that unduly pressure someone into having sex. 2. Authoritative/Power- Using one’s position over another person (faculty/student, supervisor/employee). 3. Plying someone with alcohol or drugs so that he/she cannot resist. 4. Use of threats and/or intimidation which can cause one to believe that death or injury would occur if they resisted.

Examples of coercion:
1. Verbal-Making statements that unduly pressure someone into having sex.
2. Authoritative/Power- Using one’s position over another person (faculty/student, supervisor/employee).
3. Plying someone with alcohol or drugs so that he/she cannot resist. 4. Use of threats and/or intimidation which can cause one to believe that death or injury would occur if they resisted.

Complainant: A person who files a written complaint with the Office of Institutional Equity, Inclusion, and Engagement or other responsible employee or confidential resource alleging he or she has been subjected to sexual misconduct as defined in this policy.

Consent: Clear, conscious, willing and affirmative agreement to engage in sexual activity. Consent must have the following elements: 1. Both parties are clear about their intent to engage in sexual activities and their desire to do so is willing. 2. Both individuals are fully conscious. 3. Consent can be withdrawn at any time. 4. Someone who is incapacitated cannot consent. 5. Neither individual is impaired by drugs and/or alcohol to the extent they do not know the who, what, when, where, why, or how of the situation. 6. Silence or an absence of resistance does not in and of itself constitute consent. 7. Coercion, force, or threat of either cancels consent. 8. Past consent of sexual activities does not imply future consent. 9. Consent to engage in sexual activity with one person does not give consent to engage in sexual activity with someone else.
**Sexual Harassment**: forms of sex or gender discrimination, which is a violation of federal and state law and University of South Carolina-Upstate policy. Sexual harassment is unwelcome conduct of a sexual nature, so sufficiently severe, pervasive and objectively offensive that it adversely affects a person’s or group’s ability to participate in or benefit from academic or employment, programs, services or activities of the university. Sexual harassment may arise between employment supervisors and subordinates, between instructors and students, between peers, or between any of the foregoing persons and individuals conducting business with the university.

- For sexual harassment to occur, it must be reported to the Title IX Coordinator or reported to any university official with authority to institute corrective measures.
- USC-Upstate is not obligated to resolve sexual harassment complaints that occur outside the United States (ex: study abroad).
- Informal, even multiple, complaints registered against the behaviors of an individual do not require a formal complaint process.
- Examples of conduct that may constitute sexual harassment include, but are not limited to, the following types of unwelcome behavior:

**Physical Conduct**

1. Offensive Touching:

   Touching an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, and/or clothing covering them);

2. Sexual Assault: Any form of sexual contact that occurs without consent and/or through the use of force, threat of force, intimidation, incapacitation or coercion.

**Non-Verbal Conduct**

1. Suggestive or insulting gestures or sounds;
2. Displaying or presenting images of a sexual nature.

**Verbal Conduct**

1. Explicit or implicit propositions of a sexual nature;

**Off Campus**

1. The University must respond to reports of off-campus sexual harassment if the location is used by an officially recognized student organization or institutional organization (ex: fraternity, sorority, or athletic housing).

   **Incapacitation:**
   1. Mentally incapacitated – being incapable of appraising, understanding or controlling one’s conduct, whether this condition is produced by illness, defect, influence of a substance or from some other cause; or
   2. Physically helpless – being unconscious, asleep, or for any other reason physically unable to communicate unwillingness or lack of consent to an act.
Intimate partner violence: Also referred to as dating violence, domestic violence, and relationship violence, includes any act of violence or threatened act of violence against a person (or against others important to the person) who is, or has been, involved in, a sexual, dating, domestic, or other intimate relationship with the alleged offender. It may also include damage to, or threats to damage, the property of the person (or the property of others important to the person) who is, or has been, involved in the relationship. The existence of such a relationship shall be determined based upon the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship. Intimate partner violence may involve a single act or an ongoing pattern of behavior. Intimate partner violence may encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence and emotional violence.

Prohibited conduct: Any form of stalking, sexual misconduct or intimate partner violence as defined in this policy. The use of alcohol and other drugs in conjunction with an incident of sexual assault and/or acts of interpersonal violence does not mitigate accountability for the commission of these acts or diminish the seriousness of the offense.

Respondent: Any person who is accused of subjecting another person or group of persons to prohibited conduct as defined above. A respondent is sometimes referred to herein as the alleged offender.

Retaliation: Any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of sexual misconduct, intimate partner violence or stalking allegation. Retaliation can take many forms, including continued abuse or violence, threats, and intimidation. Intimidation includes any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for the complainant’s physical well-being. Any individual or group of individuals, not just a complainant or respondent, can engage in retaliation or be the victim of retaliation.

Sexual Misconduct includes any of the following behaviors:

1. Offensive Touching: The touching of an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, and/or clothing covering them); touching an unwilling person with one’s own intimate parts; or forcing an unwilling person to touch another’s intimate parts.
2. Sexual Assault: Any form of sexual contact that occurs without consent and/or through the use of force, threat of force, intimidation, incapacitation or coercion.
3. Sexual Exploitation: An act or acts committed through non-consensual abuse or exploitation of another person’s sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include: a. observing another individual’s nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved; b. non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved; c. prostituting another individual; d. exposing one’s genitals in non-consensual circumstances; e. knowingly exposing another individual to a sexually transmitted disease or virus without that individual’s knowledge; and f. inducing incapacitation for the purpose of making another person vulnerable to nonconsensual sexual activity. Please note that statutory definitions of the above-described behaviors may differ from the definitions set forth herein.

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Stalking: A pattern of conduct in the form of words or acts (including, but not limited to, harassment via electronic or other means, such as email, text messages, social media, blogs, telephone call or faxes) in which the relationship between the respondent and the target of the conduct may be as current or former partners or spouses, a dating relationship, social acquaintances, or strangers, that is intended to cause, or does cause, a reasonable person to fear:

1. Death or death of others important to that person;
2. Assault or assault of others important to that person;
3. Bodily injury or bodily injury of others important to that person;
4. Sexual assault or sexual assault of others important to that person;
5. Involuntary restraint or involuntary restraint of others important to that person;
6. Damage to property of the person or to property of others important to that person.

Title IX: a federal law that mandates that colleges and universities create an environment free from sexual discrimination and harassment for all community members. Under Title IX, discrimination on the basis of sex can include sexual harassment, gender-based harassment, sexual violence, sexual assault, other forms of sexual misconduct, stalking, and intimate partner violence. Title IX provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” At USC-Upstate, the Title IX Coordinator is located in the Office of Institutional Equity, Inclusion, and Engagement.

Policy Statement
The University of South Carolina-Upstate strictly prohibits stalking, intimate partner violence or any other kind of sexual misconduct. Acts of sexual misconduct and interpersonal violence interfere with the educational mission by endangering the physical and emotional safety of community members, damaging trust in the community, offending the dignity and violating the autonomy of community members, disrupting the academic progress of complainants and those supporting complainants. This policy applies to all members of the university community, including students, employees, volunteers, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the university, regardless of gender, gender identity, gender expression or sexual orientation.

A. Application of Policy
1. The University of South Carolina-Upstate as an institution recognizes that sexual misconduct, intimate partner and other interpersonal violence and stalking are serious issues and as an institution we are committed to providing advocacy, intervention, and prevention education to the campus community. All reported instances will be investigated and appropriate disciplinary, criminal, and/or other action will be taken. Appropriate support services will be made available to students, faculty, and staff. The university will also provide outreach in the form of prevention programming, bystander accountability training, and awareness activities for the university community. For additional information on services for complainants of interpersonal violence at USC-Upstate and on this policy, visit www.sc.edu/stopsexualassault or;

2. This policy applies to all forms of prohibited conduct, as defined herein, and provides the following information:
   a. Resources both on and off-campus to assist complainants, whether they choose to report the incident to university officials;
   b. Reporting options for complainants that include reporting the incident to law enforcement and/or University officials or reporting to sources on campus that are able to protect the complainant’s identity;
   c. Information on reporting categories for incidents of prohibited conduct, and what may happen when those reports occur; and
   d. Information on awareness events and prevention education, including USC-Upstate’s bystander accountability program.
   
e. Prohibited conduct as defined in this policy for which the alleged offender is a student is a violation of the university’s Code of Student Conduct and may result in sanctions ranging from probation to expulsion. Disciplinary action on the part of the university does not preclude the possibility of criminal charges against the individual. For additional information refer to USC STAF 6.24 Student Non-Discrimination and Non-Harassment Policy, and EOP 1.02 Sexual Harassment Policy.

B. Scope of Policy

1. All members of the university community are expected to comply with and abide by university’s policies and guidelines and Title IX, in addition to other federal, state, and local laws, whether engaged in activity off campus or on-campus. Note that USC-Upstate is not obligated to address complaints of sexual harassment that occur outside the United States. The Student Right-to-Know and Campus Security Act (the Clery Act) of 1990 mandates the annual disclosure of statistics of sexual assaults and violent acts, to include dating violence, known to have occurred within the university’s jurisdiction. A complainant’s identity is not disclosed in any such statistical reporting.

2. The university strongly encourages all members of the campus community to provide a written or verbal report to the university police regarding any incident of sexual assault or interpersonal violence. There are different levels for reporting, which will be covered in more detail in section V. In brief, confidential resources are not required to report the complainant’s identity when reporting the incident to campus and/or local authorities. Responsible employees are mandated to report to the Title IX Coordinator any incidents of sexual misconduct, intimate partner violence, or stalking reported to them by a student. Reporting sexual misconduct is necessary to ensure that the complainant gets the help they need, the alleged offender is held accountable and the community is made safer. Whether criminal or disciplinary action is desired, a report may be filed via a reporting form on USC-Upstate’s Title IX/Sexual Assault website, https://www.uscupstate.edu/diversity/office-of-institutional-equity-inclusion-and-engagement/. If the complainant wishes his or her name to not be disclosed, the Office of Equity, Inclusion, and Engagement (EIE) will explain that such a confidentiality request may limit the ability of the university to respond, but that the E.I.E. Office will take all reasonable steps to investigate consistent with the complainant’s request, as long as doing so does not prevent the EIE Office from responding effectively to the complaint and does not prevent the EIE Office from stopping potential discrimination or harassment of others. In all situations, the EIE Office will make every effort, to the extent allowed by law, to protect the privacy of the persons involved. The number of persons with knowledge of the complaint shall be kept to a minimum and only those persons with a need to know will be notified of the complaint.

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3. Any responsible employee who fails to report a Title IX incident, as required by university policy, is subject to appropriate disciplinary action pursuant to policy HR 1.39 Disciplinary Action and Termination for Cause and the Faculty Manual.

C. Reporting Categories for Employees:

In support of a complainant’s request for confidentiality and the university’s interest in learning about incidents of prohibited conduct, the university designates the roles and responsibilities of several categories of employees with respect to confidentiality and reporting requirements.

1. Privileged employee:

These employees will not report disclosures of sexual misconduct or interpersonal violence to the Title IX Coordinator. However, they still must comply with mandatory reporting under South Carolina state law. Following is the contact information for these employees:

Student Health Services- University Health Services Building
Student Health Services Satellite Office – Rampey Center
https://www.uscupstate.edu/campus-life/health-and-safety/health-services/
Phone: 864-503-5191
Counseling Services – Rampey Center
https://www.uscupstate.edu/campus-life/health-and-safety/counseling-services/
Phone: 864-503-5195
After-hours crisis line: 864-503-5195

2. Confidential Resources:

a. Services, including the on-campus Counseling Services crisis line,
https://www.uscupstate.edu/campus-life/health-and-safety/counseling-services/crisis-services/,
University Health Services, https://www.uscupstate.edu/campus-life/health-and-safety/health-services/

Anonymous Reporting Form, https://cm.maxient.com/reportingform.php?UnivofSCUpstate,
and/or Office of Institutional Equity, Inclusion and Engagement, phone: 864-503-5959,

The personnel in these offices, including staff and student workers, can talk to a complainant without revealing any personally identifying information about an incident to the university. A complainant can seek assistance and support from these individuals without triggering a university investigation that could reveal the complainant’s identity or that the complainant has disclosed the incident. These services report the nature, date, time, and general location of an incident to the Title IX Coordinator. These limited reports – which include no information that would directly or indirectly identify the complainant – help keep the Title IX Coordinator informed of the general extent and nature of sexual and interpersonal violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, the aforementioned resources will consult with the complainant to ensure that no personally identifying details are shared.

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b. A complainant who speaks to a confidential resource must understand that, if the complainant wants to maintain confidentiality, the university may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged offender. Additionally, a complainant must understand that Title IX includes protection against retaliation and that if the complainant pursues disciplinary action against the alleged offender, USC-Upstate will take steps to prevent retaliation and take strong responsive action if any retaliation does occur. Nevertheless, if the complainant wants to maintain confidentiality, these confidential resources will still assist the complainant in receiving other necessary protection and support, such as survivor advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

A complainant who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These confidential resources will provide the complainant with assistance if the complainant wishes to do so.

3. Responsible Employee: University employees described below who are not designated as privileged employees or confidential resources under this policy are mandated to share a report of prohibited conduct with the Title IX Coordinator, or Deputy Title IX Coordinator by completing the form located at https://www.uscupstate.edu/policies/interpersonal-violence-report-form/. When a complainant tells a responsible employee about an incident of prohibited conduct, the complainant has the right to expect the university will take immediate and appropriate steps to investigate what happened, and to resolve the matter promptly and equitably. A responsible employee must report to the Title IX coordinator all relevant details about the alleged prohibited conduct incident shared by the complainant, in order for the university to determine what happened. These details can include the names of the complainant and alleged offender, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the university’s response to the report. A responsible employee should not share information with law enforcement without the complainant’s consent, unless the complainant has also reported the incident to law enforcement, unless the responsible employee also has an obligation to report the incident to law enforcement, or unless the responsible employee also has an obligation to report the incident to law enforcement under the Clery Act.

A. The university designates two categories of responsible employees:

    1. Those who have the authority to address the alleged incident.

The following employees fall into this category:

- Chancellor
- Senior Vice President for Academic Affairs and Provost
- Associate/Vice Provosts
- Athletics Director
- Deans
- Associate/Assistant Deans
- Department Chairs/School Directors
- Director of Equal Opportunity Programs
- Deputy Title IX Coordinators
- Director of Public Safety and Chief of Police

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2. Those who have a duty to report incidents of prohibited conduct reported by students to those who can address these incidents. The following groups of university employees are included in this category:

- Peer Leaders
- Athletic coaches and directors
- Student organization advisors
- Greek Life officials
- Instructional faculty

B. If a complainant requests confidentiality:

Before a complainant reveals any information to a responsible employee, the employee should ensure that the complainant understands the employee’s reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to confidential resources.

If the complainant wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the complainant that the university will consider the request but cannot guarantee that the university will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Title IX Coordinator of the complainant’s request for confidentiality. Responsible employees will not pressure a complainant to request confidentiality, but will honor and support the complainant’s wishes, including for the university to fully investigate an incident. Similarly, responsible employees will not pressure a complainant to make a full report if the complainant is not ready to do so.

C. Non-University Resources:

Off-campus counselors, advocates and healthcare providers will also generally maintain confidentiality and not share information with the university unless the complainant requests the disclosure and signs a consent or waiver form.

Following is contact information for these off-campus resources:

- Safe Homes/Rape Crisis Center (800-273-5066)
  The center, located at 235 Union St., is the local rape crisis and domestic violence center. Trained volunteers provide crisis intervention for victims of rape and relationship violence on their 24-hour hotline. They operate a shelter for women who are currently in abusive relationships and need safe housing temporarily.
- Safe Harbor (800-291-2139)
  The center provides safe shelter, counseling, advocacy, and other services for victims of domestic violence and their children, and domestic violence prevention and education for the entire Upstate community. They operate a domestic violence crisis line and two secure safe homes, serving Greenville, Pickens, Oconee and Anderson counties.
- Spartanburg Regional Hospital Emergency Department (864-560-6000 or 911)
  Located on 101 E. Wood St., the Emergency Department can provide immediate care for severe crises such as drug or alcohol overdoses or serious suicidal thoughts. Students may call 864-503-7777 for ambulance service to the hospital. (There is a fee.)

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D. Anonymous Reporting:

Although the university encourages complainants to talk to someone, the university also provides a universal reporting form which can be found at https://www.uscupstate.edu/diversity/office-of-institutional-equity-inclusion-and-engagement/. The person completing the form can choose for it to be routed to a confidential reporting source (e.g., Title IX Coordinator) or to an investigative resource (e.g., USC-Upstate Police Department, Dean of Students Office).

E. Help for Complainants Following an Incident of Prohibited Conduct:

The university provided two broad areas of support for complainants of prohibited conduct. Emergency support services are accessible immediately after an incident, while ongoing assistance is available to address longer-term impacts of the incident.

Some campus units provide both types of support and are therefore listed for both areas.

1. Emergency Support Services:

   • **USC-Upstate Counseling Services Crisis Line** – 24-hour phone line: (864)-503-5195
     
     The crisis line provides support, crisis intervention, accompaniment referral for medical procedures and student conduct processes, identifying additional resources for complainants, help complainants understand options, can facilitate appropriate referrals at any time and can assist in coordinating other services listed throughout this policy which eliminates the need for complainants to make multiple phone calls. They can also be contacted by faculty/staff/students with questions about this policy, referrals, or other specific information/concerns.

   • **University Police Department** – phone: (864) 503-7777 or dial 911 from any campus emergency phone box

     USC-Upstate police can help connect a complainant with an advocate, take a report, call transport for a complainant to the hospital and assist them with obtaining a court-issued restraining order/order of protection

   • **Spartanburg, SC Police Department** – phone: 911
   • **The Spartanburg Police Victim’s Assistance and Advocacy Office** – (864) – 503 – 4625
   • **University Health Services** – 8:30 am -5:00 pm, phone: (864) – 503-5191

     The Health Services staff provides confidential medical services; or a complainant may choose to visit another healthcare provider. Forensic exams are not performed by the Student Health Services; complainants must present to an area emergency room for that service.

2. On Campus:

   • **University Counseling Services**, phone: 864-503-5195

     Interpersonal violence is a traumatic experience and professional counseling can help complainants process the experience and take steps toward healing.

   • **Dean of Students Office, phone: 864-503-5107**

     Handles the resolution of Student Code of Conduct, Sexual Misconduct, and Sexual Harassment allegations, including the issue of sanctions when responsibility is proven. The Dean can assist students understand policies, investigatory processes, and provide referrals to support services.
• **Office of Equity, Inclusion, and Engagement (EIE), phone: 864-503-5959**

Ensures that USC-Upstate students are protected against discrimination on the basis of age, race, color, sex, gender, sexual orientation, religion, national origin, genetics, veteran status, gender identity/express, and disability status. Home to the Title IX Coordinator, the EIE Office can assist the complainant with filing a Title IX complaint and investigating the allegations. The Title IX Coordinator monitors USC compliance with Title IX, a federal law that prohibits discrimination because of sex/gender. Acts of sexual and interpersonal violence constitute sex discrimination prohibited by Title IX.

3. **Off Campus:**

• **South Carolina Bar Association, Lawyer Referral Service, phone: (800)-868-2284**

Assists complainants in finding an attorney to represent them in civil and criminal proceedings.

See Non-University Resources and Emergency Support Services

**F. Complainant’s Options for Reporting Sexual Assaults and Relationship Violence**

1. **Criminal complaint:** In order to file a report with law enforcement a complainant may contact the USC-Upstate Police Department if the assault occurred on campus, or the law enforcement agency in the locality in which the assault occurred. If the complainant is unsure of whom to contact, the complainant may contact the Dean of Students Office or the Office of Institutional Equity, Inclusion, and Engagement which will assist the complainant in reporting the assault to the correct agency. USC Upstate Police can help connect a complainant with an advocate, take a report, contact transport for a complainant to the hospital and assist him or her with obtaining a court-issued restraining order/order of protection. **Reporting an assault is not the same as prosecuting it.** The decision to pursue legal action can be made later. Complainants should consider preserving evidence by avoiding showering or cleaning themselves or their clothing. Complainants who desire to file criminal charges should consider providing clothing containing evidence of the assault to the appropriate law enforcement agency conducting the criminal investigation for preservation, in the event of prosecution of the alleged offender. To the extent permitted by the victim, consistent with the university’s obligation under the Clery Act, and to the extent permitted by the Family Educational Rights and Privacy Act and any other applicable state or federal laws, the university will share all relevant information with law enforcement agencies conducting criminal investigations.

2. **Institutional complaint:**

Office of Equity, Inclusion, and Engagement (EIE): A complainant may file a complaint with the Title IX Coordinator in the EIE office. Once a complainant files this complaint, the EIE Office investigates the allegations.

Dean of Students Office: Once a complainant files a complaint with EIE, the university’s Dean of Students Office, in coordination with EIE, can facilitate interim measures, including no-contact orders and residence hall and class schedule changes. University conduct proceedings and university Office of EIE Programs procedures will provide a prompt, fair and impartial investigation and resolution. They will be conducted by officials who receive annual training on issues related to intimate partner violence, sexual assault and stalking, and conducting investigations and hearings that protect the safety of complainants, protect the fairness for complainants and respondents, and promote accountability, while protecting the rights of all parties involved. During the pendency of the investigation, the Dean of Students Office and the Office of EIE will take appropriate interim measures to protect the complainant as necessary. These interim measures may include options to avoid contact with the respondent, as well as options to

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allow the complainant to change academic and extracurricular activities or living, transportation, dining, and working situation as appropriate. Additionally, the complainant and respondent will be provided information about Title IX rights and any available resources such as complainant and respondent advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, legal assistance, and the right to report a crime to campus or local law enforcement.

3. Reports to external agencies: A complaint may also be filed with the Office for Civil Rights of the United States Department of Education, or with the Civil Rights Division of the United States Department of Justice.

G. Institutional Reporting and Statements

1. Warnings to the community: When a crime covered by the Clery Act occurs, campus officials are required to evaluate if there is a serious or ongoing threat to the campus community to determine if a timely warning or an emergency notification should be issued to all staff and students. The University of South Carolina- Upstate makes timely warnings to the university community regarding crimes considered to be a serious or continuing threat to students, faculty, staff, and visitors when reported to the University Police Department.

2. Reporting: In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990, our Annual Security and Fire Safety Report with VAWA Amendments includes information and crime statistics for the three previous calendar years. This information is provided to help increase awareness of current policies, practices and programs that exist for the safety of university faculty, staff and students.

H. Retaliation statement: Title IX prohibits retaliation against individuals who, in good faith, assert their rights under Title IX or other applicable federal and state laws prohibiting illegal discrimination. It shall be deemed a violation of the University of South Carolina Upstate's policies and procedures for any person to retaliate, intimidate or take reprisals against a person who has filed a complaint, testified, assisted or participated in any manner in the investigation/resolution of a complaint of sexual misconduct and/or interpersonal violence filed with the Office of Equity, Inclusion, or Engagement or Office of the Dean of Students. Appropriate sanctions/disciplinary actions shall be taken against any person who is found to have violated this policy.

I. Amnesty statement: As a caring community, the university wants to foster an environment in which students take responsibility to call for help when another student is in need. Consistent with the sentiment behind Chapter 53, Title 44, Article 19 of the Code of Laws for South Carolina (Drug or Alcohol-Related Overdose Medical Treatment), any student who files a complaint or who acts as a third-party witness in an investigation under this policy will not be subject to disciplinary action by the Dean of Students Office for using and/or consuming alcohol or drugs at or near the time of the alleged incident, provided that any such alcohol or drug use did not, and do not, place the health or safety of any other student at risk.

J. Education and Training:

1. Prevention Programming and Education

a. Safe Campus, the USC-Upstate’s new student orientation online module for preventing sexual misconduct, alcohol abuse, and drug use is currently required of all new students. Safe Campus module access is provided for new students following their admission to the university.

b. University 101 classes are required of all first-year students. All class sections include a sexual misconduct prevention and response unit.
c. Sexual Misconduct, Prevention & Education Programs are conducted by professional prevention staff in various divisions throughout the academic year. These presentations are based on emerging evidence about effective interpersonal violence prevention for college students with a special focus on inclusiveness. Programs include a focus on effective response to trauma by men based on the belief that interpersonal violence is not just a woman’s issue, and that men can be accountable bystanders when it comes to issues of interpersonal violence.

d. Awareness Month Activities, USC-Upstate hosts interpersonal violence education/prevention events for students, faculty and staff during the academic year.

2. Faculty/Staff Training

a. Faculty and Staff: Employees receive training on an annual basis which includes an overview of issues related to sexual assault, and sexual harassment and their duty to report it.

b. The training must include a presumption that the respondent is not responsible until determination is made at the end of the hearing/disciplinary process.

c. The Title IX Coordinator, staff in the Office of the Dean of Students, the USC Police Department, Title IX Hearing Boards, and advocates receive training relevant to their respective positions on an annual basis to assist them in the daily functions of their jobs, to enable them to provide complainants with the highest standard of care and ensure the complainant’s and the respondent’s rights are protected during the investigative and student conduct process.

d. The training must include a presumption that the respondent is not responsible until determination is made at the end of the hearing/disciplinary process.

Procedures

A. Investigation Procedures and Protocols

1. The following are possible investigations which may occur simultaneously. All investigations at USC-Upstate, unless specifically announced, originate with the Office of Institutional Equity, Inclusion, and Engagement (EIE).

a. Title IX Investigations:

   • The Title IX Coordinator’s office receives and processes, in a timely manner, inquiries from students,
   • faculty, staff and administrators regarding rights and responsibilities concerning harassing behavior,
   • other discriminatory behavior, and/or sexual misconduct in violation of Title IX;
   • Notifies complainants of receipt of the complaint;
   • Notifies respondents that complaint has been made;
   • If applicable, notifies supervisor of respondent that complaint has been made;
   • Investigates alleged discrimination and/or harassment and/or misconduct, which may include but is
   • not limited to interviewing of complainants, respondents and material witnesses; obtaining and
   • reviewing documents and other relevant materials from complainant, respondent and witnesses;
   • Issues findings of fact, using the preponderance of evidence standard, and

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• disposition of complaints and notifies all parties regarding disposition;
• Notifies complainants of his or her right to pursue remedies outside of the university grievance process; follows up with parties regarding implementation of recommendations contained in disposition; seeks assistance from parties’ supervisors or advisors, if necessary to implement recommendations;
• Monitors compliance of all requirements and timelines specified in the complaint/grievance procedures;
• The EIE Office will endeavor to complete the investigation within a “reasonably prompt” (U.S. Department of Education and branch Office of Civil Rights) receipt of an incident report. If the circumstances of the case require, the time period for completion of the investigation by the EIE Office may be extended.
• Within ten (10) university work days of receipt of the EIE investigator’s report, either party may request a review pursuant to applicable university policy.

B. Cases in which the Office of EIE determine reasonable cause exists to conclude a violation of university policy has

• Occurred are referred to the Dean of Students Office. In accordance with the University of South Carolina System,
• when the Title IX investigator does not conclude a violation has occurred, the complaint cannot proceed into a formal hearing.

C. USC-Upstate Police Department Investigation:
• The USC-Upstate Police Department can investigate alleged criminal acts including, but not limited to, prohibited conduct, as defined herein.
• University Police can also help connect complainants with University advocates, take reports about the incident(s), provide transport for complainants to the hospital and assist with a court-issued restraining order/order of protection.

2. Survivor’s Bill of Rights –
These rights include, but are not limited to, the following:

a. All members of the university community have the right to an environment free from physical assault, emotional abuse, sexual intimidation, or any unreasonable behaviors that interfere with students attaining their educational goals.

b. In keeping with the spirit of the State of South Carolina’s Act 141: Victim and Witness Services, of sexual and/or relationship violence who report their experience to university officials can anticipate that university personnel will treat all incidents of interpersonal violence seriously.

c. Complainants will be treated with dignity and respect.

d. Complainants will be treated in a non-judgmental manner.

e. Campus organizations and services that can assist complainants will be identified.

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f. When a crime is reported to university officials, those officials will offer assistance in notifying proper authorities.
g. In a student Title IX/sexual misconduct hearing, the university brings allegations against the alleged offender, and the complainant assumes the role of a witness to the allegations.

h. When a complainant reports an incident of sexual and/or relationship violence and action is pursued against the alleged offender, the incident will be investigated and adjudicated by appropriate criminal and/or university authorities.

i. Complainants have the choice to have an attorney, advocate or advisor accompany them through university disciplinary proceedings.
j. A complainant will be notified of the progress of the case, including initial contact with the alleged offender and outcomes related to university discipline proceedings. Concerning these outcomes, the complainant and alleged offender must respect the privacy rights of all involved; however, the complaint, respondent, and involved parties are specifically allowed to talk about the allegations.

k. Complainants will be informed of counseling services available.

l. Student complainants can request immediate on-campus housing relocation, transfer of classes, or other steps to prevent unnecessary or unwanted contact or proximity to an alleged offender. When possible, requests will be accommodated.

3. Rights of Alleged Student Respondent

Students accused of violating the Student Code of Conduct are afforded the following rights:

a. The right to be notified of campus organizations and services that can assist students accused of violations of the Student Code of Conduct.
b. The right to be notified in writing of their rights in the conduct process
c. The right to be notified in writing of the charges against them with sufficient time to prepare for a hearing. In the event that additional charges are brought, a further written notice must be forwarded to the student(s) or student organization(s). The charged student(s) or student organization(s) may waive the right to separate written notice of additional charges in order to expedite the hearing process.
d. The right to be notified of the date, time and place of formal hearings at least ten (10) university business days prior to the hearing
e. The right to know with a minimum of ten (10) days in advance of the hearing, the nature and source of the information used in a hearing process. This includes the right to review all documents and exhibits to be introduced at a hearing as well as a list of witnesses asked to testify at the hearing, upon the student's request.
f. The right to present information on one's own behalf

g. The right to elect not to appear at the hearing, in which case the hearing shall be conducted in the absence of the charged party (ies)
h. The right to refuse to answer any questions or make a statement. However, the hearing authority may draw Inferences from this refusal.
i. The right to present questions for the witnesses to answer. The hearing officer or council may rule on relevance of these questions.
j. Respondent will be notified of the availability of counseling services.

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k. The right to be accompanied by an attorney or adviser throughout the hearing process. The adviser, with written permission of the accused student(s) or student organization(s), may:

   I. Advise the accused regarding preparation for the hearing  
   II. Accompany the accused to all conduct proceedings  
   III. Have access to information to be introduced at the hearing through the student

When the university does not pursue a formal investigation because of a complainant’s insistence of confidentiality, the university will pursue other steps to limit the effects of the alleged sexual misconduct and attempt to prevent its recurrence.

D. Student Adjudication Procedures

1. Student Conduct Process: Upon receiving a letter of determination following the finding of cause in an EIE investigation, the Dean of Students Office will contact the student involved to explain the right to a formal conduct hearing with the Title IX/Sexual Misconduct Hearing Board.

   Should the student wish to participate in the Title IX/Sexual Misconduct hearing, the Dean of Students Office will:

   a. Meet separately with both parties at least twice to explain the hearing process and their rights in the hearing. The Dean of Students Office has detailed materials to assist both parties prepare for the hearing.

   b. Inform both parties that they have the right to be accompanied by an attorney-advisor of their choosing. If they cannot afford an attorney, then the university provides an attorney for them. The attorney-advisors may cross-examine the complainant, respondent, and any witnesses. Cross-examinations may not be conducted by the complainant nor the respondent.

   c. If a student does not have an attorney-advisor, the University must appoint an attorney-advisor of the University’s choice to conduct cross-examination.

   d. An external and non-voting Chairperson for the Hearing Board will be provided by the University for purposes of maintaining decorum, protecting fairness, and guiding efficiencies at all possible times.

   e. The complainant and the respondent may be present for the entire hearing.

2. After receiving the evidence at the hearing, the Title IX/Sexual Misconduct Hearing Board will make a finding of responsibility based on the majority vote of the designated quorum, using the preponderance of evidence standard. The complainant, the respondent, the complainant/respondents’ advisors, and all witnesses will not be present during the deliberation of finding portion of the hearing.

   a. Notification of Outcomes: Both students are notified simultaneously and in writing of the outcome of the proceeding within three (3) university business days.

   b. Sanctions: University students who are determined to have violated applicable university policies regarding Title IX/sexual misconduct/sexual harassment, and/or interpersonal violence may be subjected to sanctions ranging from a written warning or reprimand, to suspension, residence hall suspension, or expulsion, depending on the facts and circumstances of the particular case.

Department of Public Safety – Updated 09/15/2021
Other sanctions may include the following:

- Issuance of no contact order
- Campus restriction
- Conduct probation
- Assessment with a counseling agency

c. Appeals: An appeal may be made for the following reasons:

i. A procedural error was committed that has significantly prejudiced the findings of the hearing council.

ii. New evidence that could not have been available at the time of the hearing and would have a significant effect on the outcome of the case is now available.

The complainant and the respondent shall have five (5) university business days from the date the decision letter is received to submit a written request for an appeal to the Title IX/Sexual Misconduct Appeals Panel. If there is no appeal within this time limit, the decision of the Title IX/Sexual Misconduct Hearing Board is final, barring extraordinary circumstances, as determined by the Dean of Students. To appeal the findings of the Hearing Board, the student must do so via e-mailed letter to the Dean of Students. The Dean of Students Office will forward a response memorandum and the appeal to the Title IX/Sexual Misconduct Appeals Panel. The Title IX/Sexual Misconduct Appeals Panel will review the appeal documents and make a decision by majority vote of the established quorum, using the preponderance of evidence standard to:

i. Affirm the decision of the hearing authority, in which case the decision is final, or

ii. Remand the case to the original hearing authority for further proceedings with directives to address procedural errors or new evidence.

When an appeal is submitted, the other student involved in the incident will be notified, given a copy of the appeal, and permitted to submit a document or response to the appeal within five university business days. Both appeal documents will be considered simultaneously.

d. Additional Provisions Related to Title IX/Sexual Misconduct Disciplinary Proceedings

I. Notice of the time, date/location of a hearing shall be provided to each party in writing by the Office of the Dean of Students no later than ten (10) university business days before the date of the hearing.

ii. Each party shall have the right to attend and offer testimony and/or other evidence as the university’s policies and procedures permit. Each party shall be entitled to be accompanied by an attorney-advisor who is allowed to be present and is allowed to cross-examine the complainant, the respondent, and all witnesses.

iii. Questioning of the complainant or respondent about prior sexual activity or conduct with persons other than the other party shall not be allowed.

iv. The parties will not be prevented by the university from disclosing information related to the outcome of student disciplinary proceedings.

v. University officials with a need to know may be informed of the outcome of a disciplinary proceeding to facilitate any appropriate university protective or safety measures.

Department of Public Safety – Updated 09/15/2021
What are my Reporting Options and Who Do I Contact If I am a Victim of Sexual Assault, Dating Violence, Stalking or Domestic Violence?

The adverse emotional impact following an act of violence including sexual assault can be severe. The long term effects of the trauma of sexual violence can have serious and lasting psychological consequences. The University recognizes the importance of competent, comprehensive and sensitive professional help. Do not hesitate to contact any one of the offices listed as soon as possible to report any incidence of sexual violence. The victim of a sexual assault, dating violence, domestic violence or stalking has several options listed below:

- **Reporting to the USC Upstate Department of Public Safety:** If an assault occurs on University property, it should be reported to campus police by calling 911, 503-7777 or by using a campus emergency telephone. Assaults that occur off campus or at the Johnson School of Business, or University Center Greenville should be reported to the local police department by calling 911. If you so desire, you may also be assisted by campus authorities such as the Dean of Students (864) 503-5107, Counseling Services, (864) 503-5195, Director of Health Services at (864) 503-5191, or the Title IX Coordinator at (864) 503-5959 in notifying University Police.

  Filing a police report will involve investigating the allegation to determine if probable cause exists to warrant a violation of criminal statutes. Filing a police report will also involve making a statement to a police officer, identifying witnesses, identifying the perpetrator if known and turning over any and all physical evidence to the police department. Statements will also be taken from any witnesses and the perpetrator if known.

  At any time during the course of the investigation, the victim may withdraw his or her desire to proceed with the case, or elect to file a complaint at a later date. However, if a report of criminal domestic violence is received an officer must investigate; and, if a police officer has probable cause to believe any crime of domestic violence has occurred, including violation of a protection order, the officer may make an arrest with or without a warrant, even if the officer did not observe the offense. If the victim is injured, the officer must make an arrest if the officer has probable cause to believe a crime of domestic violence occurred. Probable cause is merely a reasonable belief that a crime has occurred.

  Regardless of which avenue a student selects, the University of South Carolina Upstate will comply with the student’s request for assistance in notifying the selected campus authority.

  Moreover, when a student or employee reports to the institution that the student or employee has been the victim of dating violence, domestic violence, stalking of sexual assault; whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student’s or employee’s rights and options.

  If you do not wish to file a police report, you may also contact any of the following resources:

  - **Title IX Coordinator** (864) 503-5052
  - **Dean of Students** (864) 503-7350
  - **Director of Health Services** (864) 503-5191

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• **Counseling Services** (864) 503-5195 – Counseling Services is an on-campus resource that provides free counseling visits to students. These trained professionals are ready to assist you or refer you to other competent professionals. All assistance is free and strictly confidential. Counseling can be critical to regaining one’s emotional balance following a sexual assault.

• **SAFE Homes Rape Crisis** (864) 583-9803. This organization provides services to victims of domestic violence in Spartanburg, Cherokee and Union Counties and victims of sexual assault in Spartanburg and Cherokee Counties.

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**Procedures Victims Should Follow if a Crime of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Occurs**

If you are the victim of a sexual assault, dating violence, domestic violence or stalking at this institution, your first priority should be to go to a place of safety. You should then obtain necessary medical treatment if needed. In the Spartanburg metropolitan area, this is Spartanburg Regional Hospital. Sexual Assault Nurse Examiners, (SANE) at the hospital are trained and certified in physical evidentiary recovery kit collection. Evidence may be collected, even if the victim chooses not to make a report to law enforcement.

The Department of Public Safety strongly advocates that a victim of sexual assault, domestic violence, dating violence or stalking report the incident in a timely manner to either the University Police Department or other law enforcement agency (if the incident occurred off campus). This is a critical factor for effective evidence collection and preservation, assisting in criminal prosecution and helpful in obtaining an order of protection. Filing a police report with a University Police Officer will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers. Filing a police report will, however:

• Ensure that a victim of sexual assault receives the necessary medical treatment and tests at no expense to the victim;
• Provide for the collection of evidence helpful in prosecution, which cannot be obtained later;
• Assure the victim has access to free confidential counseling from counselors trained in the area of sexual assault crisis intervention.

Campus authorities such as the Dean of Students, Title IX Coordinator, Victim Advocates, Professional Counselors or others may assist the victim in notifying law enforcement authorities upon request. Alternatively, a victim may decline to notify law enforcement, pursue remedy through the campus judicial process or decline to notify such authorities entirely.

Incidents of sexual assault, dating violence, domestic violence or stalking on campus may be reported to any campus authority with whom the victim is comfortable and specifically to the following individuals by phone or in person:

Department of Public Safety – Updated 09/15/2021
When a victim contacts the Department of Public Safety, a state certified victim’s advocate will be contacted as well. The victim of a sexual assault, dating violence, domestic violence or stalking may choose for the investigation to be pursued through the criminal justice system, University judicial system, or both. Alternatively, the victim may choose not to pursue either of these options.

University disciplinary proceedings, as well as special guidelines for cases involving sexual misconduct are detailed in the *Student Handbook*.

The *Handbook* provides in part, that the accused and the victim will each be allowed to choose one person who to accompany them throughout the hearing. Both the victim and the accused will be informed in writing of the outcome of the hearing that arises from an allegation of dating violence, domestic violence, sexual assault or stalking.

A student found guilty of violating the University sexual misconduct policy could be criminally prosecuted in State court and suspended or expelled from the University on the first offense. A Victim’s Advocate from the Department of Public Safety and/or Counselor from the University Counseling Center will also guide the victim through the available options and support the victim in his or her decision. Various counseling options are available from the University through Health Services, Counseling Services and the Employee Assistance Program. Counseling and support service outside the University system may be obtained through Safe Homes (see chart of services pages 37 and 38).

**Medical Attention:**

Whatever one does following a sexual assault, it is essential that medical attention be sought immediately to protect against internal injury or disease and to assist with later prosecution. A victim should observe the following recommendations:

- Do not take a shower or wash any body part
- Do not douche
- Do not brush teeth
- Do not drink liquids
- Do not change clothes
- Do not change sheets
- Do not urinate
- Do not smoke or eat if there has been oral sexual contact
- Do not place any changed clothes in a plastic bag

In circumstances of a sexual assault, if a victim does not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infections. Victims of sexual assault, domestic violence, dating violence, and stalking are encouraged to also preserve evidence by saving text messages, instant messages, social networking
Involvement of Law Enforcement and Campus Authorities

Although the University strongly encourages all members of the community to report violations of this policy to the Department of Public Safety, it is the victim’s choice whether or not to make such a report. Furthermore, victims have the right to decline to notify law enforcement. However, the Department of Public Safety may be reached at (864) 503-7777 during normal business hours or 911 after hours or for an emergency; or in person at the Department of Public Safety at 219 North Campus Blvd. Spartanburg, SC 29303.

Reporting Incidents of Sexual Assault, Domestic Violence, Dating Violence and Stalking to the Title IX Coordinator

If you have been the victim of sexual assault, domestic violence, dating violence or stalking, you should report the incident promptly to the Title IX Coordinator located in the Administration Building, 800 University Way, Spartanburg SC 29303 Room 117; phone (864) 503-5959 by calling, writing, or coming into the office to report in person. Reports of all sexual assaults, domestic violence, dating violence, and stalking received by University Public Safety will automatically be referred to the Title IX Coordinator for review. The Title IX Coordinator is not a confidential reporting entity and is required to report incidents of a criminal nature to Public Safety.

Procedures the University Will Follow When a Crime of Sexual Assault, Domestic Violence, Dating Violence or Stalking is Reported

The University has procedures in place that serve to be sensitive to victims who report sexual assault, domestic violence, dating violence, and stalking including informing individuals about their right to file criminal charges; as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services on and off campus; as well as other remedies to prevent contact between a complainant and an accused party, such as housing, academic, transportation and working accommodations, if reasonably available. The University will make such accommodations, if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to local law enforcement. Students and employees should contact the Title IX Coordinator located in the Administration Building, 800 University Way, Spartanburg SC 29303 Room 117; phone (864) 503-5959 by calling, writing, or coming into the office to report in person. The Title IX Coordinator will coordinate with the Dean of Students for student cases and the Director of Employee Relations for employee cases.

The University of South Carolina Upstate will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the University against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, the University of South Carolina Upstate will provide results of the disciplinary hearing to the victim’s next of kin, if so requested.

Department of Public Safety – Updated 09/15/2021
### Incident Being Reported

<table>
<thead>
<tr>
<th>Sexual Assault</th>
<th>Procedures USC Upstate Will Follow</th>
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<tbody>
<tr>
<td></td>
<td>1. Depending on when reported (immediate vs. delayed report), the institution will facilitate victim with access to medical care.</td>
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<td>2. The institution will assess the immediate safety needs of the victim</td>
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<td>3. USC Upstate will assist victim with contacting University Police if the complainant requests and provide the victim with contact information for University Police.</td>
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<td>4. The institution will provide the victim with referrals to on and off campus counseling/mental health providers.</td>
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<td>5. USC Upstate will assess the need to implement interim or long-term protective measures, if appropriate.</td>
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<td>6. The institution will provide the victim with a written explanation of victim’s rights and options.</td>
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<td></td>
<td>7. USC Upstate will issue a “No Trespass” and/or “No Contact” order to the accused party if deemed appropriate.</td>
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<td></td>
<td>8. The institution will provide written instructions on how to apply for an Order of Protection. Further the institution will provide access to a Victim Advocate to assist with the process.</td>
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<td>9. USC Upstate will provide a copy of the University policy applicable to sexual assault to the victim and inform the victim regarding timeframes for inquiry, investigation and resolution.</td>
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<td>10. The institution will inform the victim of the outcome of the investigation, whether or not the accused will be administratively charged, and the outcome of the hearing.</td>
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<td></td>
<td>11. USC Upstate will enforce the anti-retaliation policy and take immediate and separate action against the parties that retaliate against a person for reporting sex-based discrimination or for interfering or attempting to interfere in the investigation.</td>
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<td></td>
<td>12. The institution will provide written instructions to the victim on how to preserve evidence.</td>
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<td>Stalking</td>
<td>1. USC Upstate will assess immediate safety needs of the victim.</td>
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<td></td>
<td>2. Institution will assist victim with contacting University Police if the complainant requests or provide contact information for the authority of jurisdiction if the incident occurred off-campus.</td>
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<td>3. USC Upstate will provide written instructions on how to apply for an Order of Protection.</td>
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<td>4. The institution will provide written instructions to the victim on how to preserve evidence.</td>
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<td></td>
<td>5. USC Upstate will assess the need to implement interim or long-term proactive measures to protect the victim, if appropriate.</td>
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<td>6. The institution will provide the victim with a written explanation of the victim’s rights and options.</td>
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<td></td>
<td>7. USC Upstate will issue a “No Trespass” and/or “No Contact” order to the accused party if deemed appropriate.</td>
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<tr>
<td>Dating Violence</td>
<td>1. USC Upstate will assess the immediate safety needs of the victim.</td>
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<tr>
<td></td>
<td>2. Institution will assist victim with contacting University Police if the complainant requests or provide contact information for the authority of jurisdiction if the incident occurred off-campus.</td>
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<tr>
<td>Procedures USC Upstate Will Follow</td>
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<td>3. USC Upstate will provide written instructions on how to apply for an Order of Protection.</td>
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<tr>
<td>4. The institution will provide written instructions to the victim on how to preserve evidence.</td>
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<td>5. USC Upstate will assess the need to implement interim or long term proactive measures to protect the victim, if appropriate.</td>
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**Domestic Violence**

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<th>Procedures USC Upstate Will Follow</th>
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<td>2. Institution will assist victim with contacting University Police if the complainant requests or provide contact information for the authority of jurisdiction if the incident occurred off-campus.</td>
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<td>3. USC Upstate will provide written instructions on how to apply for an Order of Protection.</td>
</tr>
<tr>
<td>4. The institution will provide written instructions to the victim on how to preserve evidence.</td>
</tr>
<tr>
<td>5. USC Upstate will assess the need to implement interim or long term proactive measures to protect the victim, if appropriate.</td>
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<tr>
<td>6. The institution will provide the victim with a written explanation of the victim’s rights and options.</td>
</tr>
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<td>USC Upstate will issue a “No Trespass” and/or “No Contact” order to the accused party if deemed appropriate.</td>
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**Jurisdictional Definitions of Sexual Assault, Domestic Violence, Dating Violence, and Stalking**

**Sexual Assault:** The State of South Carolina defines sexual assault as follows:

**Rape (Criminal Sexual Conduct) SC Code of Laws 16-3-652** - A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses aggravated force to accomplish sexual battery.
(b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.
(c) The actor causes the victim, without the victim’s consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.

**Domestic Violence/Abuse SC Code of Laws - 16-25-10 and 16-25-20** Domestic Violence involves someone causing harm or injury to a household member, or threatening or attempting to cause harm or injury to a household member while being apparently able to carry out the threat or attempted harm.
The state also makes it a crime to violate a domestic violence protection order or to trespass on the
grounds of a domestic violence shelter. Household members include spouses, former spouses, people
who have children together, and people of the opposite sex who live together or have lived together.

**Dating Violence** - Dating Violence is the physical, sexual, psychological, or emotional violence within a
dating relationship, including stalking. It can occur in person or electronically and might occur between a
current or former dating partner.

**Stalking** - **SC Code of Laws 16-3-1700 Pattern** of words or conduct that causes fear of death, assault,
bodily injury, criminal sexual contact, kidnapping, or property damage to victim or victim’s family
member. Aggravated stalking is stalking accompanied by an act of violence.

**Consent**

- Both individuals are physically free and capable to act
- Both individuals are willing and clear about their intent to engage in sexual activities
- Silence may not in and of itself constitute consent
- Past consent of sexual activities doesn’t imply ongoing future consent.
- Consent cannot legally be given by someone who is intoxicated.
- Consent cannot be legally given by a person who is incapable of giving consent due to a mental
  or physical disability
- Legal age of consent in South Carolina is 16 years old. However, individuals as young as 14 years
  old are able to give consent with a partner who is 18 years old or younger.

**Non-Consensual Sexual Contact** occurs when there is coerced, manipulated or unwanted touching,
directly or through clothing, of an intimate part of a person (i.e., the genital areas, groin, inner thigh,
anus, buttocks, mouth or breasts) that occurs against one’s will, or without one’s consent, including
when one is unconscious, intoxicated or otherwise unable to give consent.

**Non-Consensual Sexual Assault** occurs when there is unwilling or non-consensual penetration of any
bodily opening with any object or body part. This includes, but is not limited to penetration of a bodily
opening without consent through use of coercion or manipulation.

**Preservation of Evidence**

Forensic evidence collection is best done within 72 hours of the assault and best collected immediately
following an assault. Technological advancements are making it more likely to collect evidence even
after 72 hours; however, it is important to remember that the more time passes between the sexual
assault and reporting it to the police, the less likely it will be to collect physical evidence that may be
very important to the prosecution of a criminal case. However, completing a forensic examination would
not require a victim to file a police report but will help preserve evidence in the event the victim decides
to file a report at a later date. Time is absolutely critical when reporting a sexual assault. The sooner the
assault is reported the easier it is to collect valuable evidence.

Department of Public Safety – Updated 09/15/2021
1. Do not bathe, wash your hands, douche, urinate, defecate or change clothes or engage in any activity that may contaminate or destroy valuable evidence such as semen, saliva, hairs and blood. This includes eating, chewing gum, smoking, drinking, brushing teeth and gargling. Doing so may destroy evidence prior to receiving medical attention.

2. If you have to urinate, collect the urine in a clean jar with a lid and refrigerate the specimen until you can give it to a medical professional.

3. Do not wash your clothes, sheets or bedding or dispose of any items associated with the assault.

4. Have a forensic sexual assault examination conducted by a Sexual Assault Nurse Examiner (SANE Nurse) at Spartanburg Regional Medical Center.

5. Even if you choose not to have a forensic sexual assault examination, you should see a doctor to be treated for sexually transmitted diseases and pregnancy.

6. If University Police is involved, or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. Police may gather bedding, linens or un laundered clothing, and any other pertinent articles that may be used as evidence.

7. If University Police is involved, or will be involved, they will obtain evidence from the scene, and it is best to allow University Police to secure items in evidence containers, but if you are involved in transmission of items to the hospital, secure them in a clean paper bag or clean sheet to avoid contamination. Plastic bags or containers are not recommended.

8. If physical injuries are present, photograph or have them photographed with a date stamp of the photo. University Police and SANE Nurses have equipment to photograph injuries.

9. Record the names of any witnesses and their contact information. This information may be helpful as proof a crime occurred, obtain protection order, or prove a campus policy violation.

10. Try to memorize details (e.g., physical description, names, license plate number, vehicle description etc.) or write down notes of details.

**Standard of Evidence**

The University of South Carolina Upstate employs a “preponderance of evidence” standard for all (Civil Rights/Title IX) investigations. A preponderance of evidence simply means that it is more likely than not that the accused is responsible for their actions. In criminal investigations conducted by the University Police Department, the standard of evidence is “proof beyond a reasonable doubt.”

**Investigation of Reports**

The University will take prompt action to investigate and adjudicate a complaint. A written notice of inquiry and assessment will be given to the reporting party/complainant informing them of their rights and options to proceed with a formal investigation. With signed consent of the reporting party, a written notice of formal investigation will be issued to both complainant and the respondent informing them of the allegations, resources and rights in the process at least three business days prior to any meeting pursuant to the formal investigation. A summary of findings and recommendations will be issued and reviewed with both the reporting party/complainant and respondent before being issued to
the appropriate decision-making authority. Investigations will include timely notice of meetings for the reporting party/complainant and the respondent throughout the process.

The University will conduct a prompt, fair, impartial investigation in a timely manner designed to provide all parties with resolution. The University’s goal is to complete the investigation within 60 days. However, there may be times where the process may take longer, and the University will communicate on an ongoing basis with the parties a realistic timeline, and the circumstances regarding the same. In every investigation conducted under this policy, the burden is on the University—not the parties—to gather sufficient evidence to reach a fair, impartial determination as to whether sexual misconduct has occurred and, if so, whether a hostile environment has been created that must be redressed.

Investigations will be conducted by one or more of the following: the University Police Department, the EO/Title IX Coordinator, an external investigator, or other investigator designated by the Dean of Students. The designee may be an employee of the University, an external investigator, or both. All reasonable efforts will be made to keep information private during the University’s investigation and adjudication of a complaint. University Investigators receive annual training on the issues related to Title IX including unlawful discrimination, sexual harassment, sexual misconduct, intimate partner violence, sexual exploitation, dating violence, domestic violence, sexual assault and stalking and on how to conduct an objective and impartial investigation and hearing processing that protects the civil rights and safety of all parties, promotes accountability, and ensures investigative techniques do not apply to sexual stereotypes and generalizations. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair. Finally, the investigation will be conducted in a manner that is respectful of individual privacy concerns.

Victim Advocate Services

Victim Advocate Services are available through a certified victim’s advocate at the University Police Department. If you or a loved one become a victim of a crime, it’s important to know your rights, and have a support base. Our Victim Assistance Response Team is available to provide services to victims and witnesses immediately after the crime occurs, during the investigation, and throughout the Criminal Justice Process in many different ways:

- Crisis Intervention
- Referrals and information to community agencies for professional counseling, support groups, medical, financial aid, and shelter.
- Informing victims/witnesses of their rights/responsibilities under the law.
- Acting as liaison between victims, police, investigators, and local agencies.
- Court preparation accompaniment and emergency transportation to court.
- Information regarding the current status of your case.
- Assistance in filing for victim compensation through the State Office of Victim Assistance (SOVA), to help with medical expenses, lost wages, counseling and funeral expenses.
Under the provisions of SC State Statute 16-3-1515, a victim or witness who wishes to exercise his or her rights under this article or receive services under this article or both must provide a law enforcement agency, a prosecuting agency, a summary court judge, the Department of Corrections, the Department of Juvenile Justice, as appropriate, his or her legal name, current mailing address, and current telephone number.
Resources
An extensive database of state and national resources is available from the South Carolina Victim Assistance Network via telephone at 803-750-1200 or 888-852-1900 or email: info@scvan.org

SC Victim Assistance Network (SCVAN)
Post Office Box 212863  Columbia, SC 29221
Phone (803) 750-1200 or (888) 852-1900  |  Fax (866) 473-1272

Statewide Victim Assistance Offices

FBI (Federal Bureau of Investigation)
151 Westpark Boulevard
Columbia, SC 29210
Phone (803) 551-4200
www.fbi.gov/columbia

Crime Victims’ Ombudsman
1200 Senate Street
Columbia, SC 29201
Phone (803) 734-0357

Governor’s Office
State Office of Victim Assistance (SOVA)
Edgar A. Brown Bldg
1205 Pendleton Street, Room 401
Columbia, SC 29201
Phone (803) 734-1900 or (800) 220-5370
www.scag.gov

Guardian Ad Litem Program
1205 Pendleton Street, Suite 447
Columbia, SC 29201
Phone (803) 734-1900 or (888) 224-651
www.gal.sc.gov/

Mothers Against Drunk Drivers (MADD)
421 Mission Court
Irmo, SC 29063
Phone (803) 748-7333 or (800) 543-8692
www.madd.org/south-carolina

Office of the Attorney General
Victim Assistance Program
Rembert Dennis Bldg
1000 Assembly Street, Room 519
Columbia, SC 29201
Phone (803) 734-3739
www.scag.gov

Solicitor’s Office Victim Advocates
Each Solicitor’s office has a victim advocate who can be a good source of information and can keep you up-to-date as your case progresses through the criminal court. If a law enforcement victim advocate or other victim assistant has not already contacted you, you might want to call your solicitor’s office victim advocate and talk with them.

SC Coalition Against Domestic Violence and Sexual Assault (SCCADVASA)
Post Office Box 7776
Columbia, SC 29202
Phone (803) 256-2900
www.sccadvasa.org

SC Department of Corrections (SCDC)
Divisions of Victim Services
Post Office Box 21787
Columbia, SC 29221
Phone (803) 896-1733 or (800) 835-0304
www.doc.sc.gov/victim_services/victims.html

SC Department of Juvenile Justice
Division of Victim Services
Post Office Box 21069
Columbia, SC 29221
Phone (888) 224-6165
www.state.sc.us/djj/

SC Department of Probation, Parole & Pardon Services (SCCPPS)
Office of Victim Services
Post Office Box 207
Columbia, SC 29202
Phone (803) 734-9367 or (888) 551-4118 for victims only
www.dppps.sc.gov/Victim-Services

SC Juvenile Parole Board Victim Services
100 Executive Center
Santee Building, Suite 103
Columbia, SC 29210
Phone (803) 896-5614

SC State Law Enforcement Division (SLED)
Post Office Box 21398
Columbia, SC 29221
Phone (803) 737-3600
www.sled.sc.gov

Law Enforcement Victim Advocates
Local law enforcement agencies have Victim Advocates. Members of South Carolina’s Law Enforcement Victim Advocate Association (LEVA) can be located through the South Carolina Victim Assistance Network at 803-750-1200 or on their website at www.scleva.org. Call your local law enforcement agency to speak to a Victim Advocate.