



Utah Sexual Violence Council

Five-Year Strategic Plan

2004

Coordinating Agency

Utah Department of Health, Violence and Injury Prevention Program

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Amy Gibbons, Violence and Injury Prevention Program, Utah Department of Health
Katie Searle, Violence and Injury Prevention Program, Utah Department of Health

USVC Member Agencies:

Commission on Criminal & Juvenile Justice
CWCIC Sexual Assault Services
Governor's Domestic Violence Cabinet Council
Midvale Police Department
Mt. Logan Middle School
Office of Crime Victim Reparations
Sandy City and SLC Police Departments
Salt Lake Sexual Assault Nurse Examiners
Skordas and Caston, Attorneys-at-Law
Third District Court
University of Utah
Utah Chiefs & Sheriffs Association
Utah Coalition Against Sexual Assault
Utah Department of Corrections
Utah Department of Health
Utah Department of Human Services
Utah Department of Public Safety
Utah Division of Youth Corrections
Utah Office of the Attorney General
Utah Prosecution Council
Utah Sentencing Commission
Utah State University

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We particularly wish to thank these original members of the Legislative Council on Sexual Victims and Offenders:

Representative Trisha Beck
Representative Lorraine Pace
Senator Peter Knudsen

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Foreword

The intent of this report is to organize the efforts of the Utah Sexual Violence Council's (USVC's) strategic visioning process, which sought to advance collaborative relationships and effectively evolve Utah's approach to preventing sexual violence. This report is designed to provide a unified voice to prevent sexual violence in Utah. It will provide policymakers, service providers, community organizations, government agencies, and others with a better understanding of the individuals and organizations addressing sexual violence.

The fundamental purpose of the USVC's Five-year Strategic Plan is to energize and support professionals in the field of sexual violence prevention and intervention by:

1. Summarizing the history of rape crisis programming milestones and reflecting on Utah's progress to inform the Council's future direction;
2. Identifying key issues and developing strategies for innovatively and proactively addressing sexual violence over the next five years; and
3. Increasing the capacity of service providers and the criminal justice system, using a multi-disciplinary approach, to support victims and hold perpetrators accountable.

The Council's vision is to change social norms and improve Utah's understanding of the overwhelming significance of this public health, social service, and criminal justice problem.

History

Historical Milestones

- 1975: The Salt Lake Rape Crisis Center, now the Rape Recovery Center, was established.
- 1983: The Utah Legislature passed the Confidential Communications Act for Sexual Assault.
- 1986: The U.S. Congress first allocated Victims of Crime Act (VOCA) funding.
- 1990s: Three new complete rape recovery programs were launched around the state.
- 1991: The Utah Legislature passed a law making it a crime to rape one's spouse.
- 1994: Utah passed the Rape Shield Rule.
- 1995: The U.S. Congress passed the Violence Against Women Act (VAWA), which allocated funding for female victims of crime, including rape.
- 1996: The Centers for Disease Control and Prevention released block grant funding for rape prevention activities to be implemented by local rape recovery programs across the nation.
- 1996: CAUSE now known as the Utah Coalition Against Sexual Assault (UCASA), was created with VAWA funding.
- 1996: Utah passed legislation for Crime Victim Reparations to cover the cost of a forensic rape exam.
- 1997: Utah became the first Western state to implement a 24-hour rape and sexual assault crisis and information line.
- 1997: Sexual Assault Nurse Examiner (SANE) programs were launched in many Utah communities.
- 1997: The Utah Department of Health and UCASA launched Utah's first media campaign on rape and sexual assault.
- 1997/8: Four complete rape recovery programs were developed in communities across Utah.



History

- 1998: A standardized 40-hour training program was created and implemented for Rape Recovery Program staff and volunteers.
- 1998: The Utah Department of Health contracted with the Social Research Institute to perform an evaluation of five rape prevention programs.
- 1998: VAWA funded the Utah State Crime Lab to process forensic rape evidence kits in a timely manner.
- 1999: The Utah Council on Sexual Victims and Offenders met.
- 2000: A second media campaign was launched with the theme: “Men Speak Out Against Rape: Every Victim Is Someone’s Daughter.”
- 2001: The Utah Department of Health received a two-year supplemental grant from the CDC for violence against women program planning and implementation.
- 2001: Utah Men Against Sexual Violence was officially organized.
- 2003: The Utah Sexual Violence Council (USVC) was formalized and began meeting on a regular basis.
- 2003: The Davis County shelter, Safeharbor, officially launched its own rape crisis and education program.
- 2004: The St. George shelter, DOVE Center, initiated its complete rape recovery program.
- 2004: The first statewide Sexual Assault Nurse Examiner position was funded.
- 2004: The first statewide conference on sexual violence, “From Perpetration to Prevention: A Comprehensive Approach to Sexual Violence” was conducted.
- 2004: The USVC’s Five-year Strategic Plan, which identified and prioritized key sexual violence issues, was released.

History

Through nearly three decades of services, organizing, and policy work around the issues of rape and sexual violence in Utah, we have seen enormous strides and accomplishments. The Utah Sexual Violence Council (USVC) is a result of the commitment, interest, and dedication of many volunteers, survivors, professionals, and administrators. Representatives throughout the state invested time to consider priority issues to be addressed by this pioneering council. In 1999, the Utah Department of Health, Violence and Injury Prevention Program (VIPP), and the Utah Coalition Against Sexual Assault (UCASA), originated the idea of enlisting individuals, organizations, and agencies to participate in a statewide multi-disciplinary council addressing sexual violence. From 1999 to 2002, VIPP and UCASA surveyed the degree of stakeholder interest in constructing such a council.

A steering committee was created in 2002 with representation from the Office of Crime Victim Reparations, the Commission on Criminal and Juvenile Justice, the Rape Recovery Center of Salt Lake City, UCASA, and VIPP. This committee prioritized gaps in services and compiled a list of agencies and professionals who might initiate effective policy and act as catalysts for structural change.

In 2003, the first executive committee of the USVC was formed with representation from the Commission on Criminal and Juvenile Justice, VIPP, and UCASA. This executive committee worked to facilitate the convergence and formalization of the new multi-disciplinary Council. The Utah Sexual Violence Council brings a variety of resources, voices, and representatives together to implement systemic improvements through identification and prioritization of needs. These individuals conducted data collection and assessment of community needs throughout Utah to develop a meaningful five-year strategic plan.



USVC serves as a statewide Sexual Assault Response Team (SART) that can effect, standardize, streamline, and improve victim services, establish protocols, and make recommendations. USVC can, potentially, be the most influential mechanism to improve the systems that serve victims and perpetrators of sexual violence in Utah.

History

Accomplishments of the USVC

- Assembled 23 representatives from corrections, public education, counselors, higher education, sentencing, advocacy groups, health departments, law enforcement, Third District Court, and prosecution.
- Prioritized the following issues and developed statewide action plans:
 1. Increase the reporting of sexual assault in Utah.
 2. Understand the landscape, demographics, and uniqueness of sexual violence in Utah.
 3. Diagnose gaps in and duplication of services.
 4. Organize an annual conference for professionals.
 5. Train professionals within the criminal justice system.
 6. Coordinate seminars and public information campaigns across disciplines.
- Developed four subcommittees to focus on prevention, the criminal justice system, community collaboration, and victim advocacy.
- Hosted the signing of the Governor's Sexual Assault Awareness Month proclamation.
- Completed the five-year strategic plan for Utah that aims to promote a climate in Utah where sexual violence is recognized as a priority issue.



Utah Sexual Violence Council

Membership & Structure

Executive Committee

Dr. D. Kim Openshaw, Chair
Utah State University

Carrie Searcy, Vice Chair
Utah Department of Human Services

Amy Gibbons, Nominating Chair
Utah Department of Health

Laurel Duncan, Administrator
Utah Coalition Against Sexual Assault

Community Collaboration Committee

Dave Fowers, Chair
Utah Division of Youth Corrections

Prevention Committee

Pat Mills, Chair
CWCIC Sexual Assault Services

Criminal Justice Committee

Ned Searle, Chair
Governor's Domestic Violence Cabinet Council

Victim Advocate Committee

Andrea Rider, Chair
Sandy City and SLC Police Departments

General Membership

Dave Attridge
Utah Department of Public Safety,
Peace Officer Standards and Training

Dianne Fuller
Salt Lake Sexual Assault Nurse Examiners

Judge Terry Christiansen
Third District Court

Chris Nelson
Mt. Logan Middle School Counselor

Don Linton
Utah Prosecution Council

Greg Skordas
Skordas and Caston, Attorneys-at-Law

Heather Roxburgh
Victim Advocate Program
Midvale Police Department

Tracey Tabet
Utah Office of the Attorney General

Debra Daniels
Women's Resource Center
University of Utah

Ron Gordon
Utah Sentencing Commission

Mike Haddon
Commission on Criminal & Juvenile Justice

Christine Watters
Office of Crime Victim Reparations

Steve Hodges
Utah Chiefs & Sheriffs Association

Barbara Hancock Snyder
Board of Regents, University of Utah

Jan Nicol
Adult Probation and Parole



The Plan

Mission

The mission of the Utah Sexual Violence Council is to promote a climate where sexual violence is addressed as a priority issue that impacts all Utah communities.

Goals

Goal 1: Develop ongoing communication among key agencies through the maintenance of a quorum of individuals on both the general Utah Sexual Violence Council and the Council's subcommittees.

Strategies:

- Meet on a monthly basis to review membership and attendance, plan bimonthly council meetings, and assure compliance with council bylaws.
- Network with subcommittee chairs to encourage the recruitment and retention of consistent membership.
- Provide support, resources, and information to the Council and its subcommittees in an effort to maintain their interest, abilities, and efforts to meet the strategic planning objectives.
- Organize an annual Council retreat to assess progress made on the strategic plan, improve relationships among council members, and identify emerging issues.
- Ensure that the Utah Domestic Violence and Sexual Assault Resource Directory is updated with accurate and useful information on a regular basis.
- Maintain a comprehensive calendar of events addressing sexual violence in Utah.

Desired Outcome for Goal 1: Continued coordination and productive collaboration for the Utah Sexual Violence Council, including focused work and full understanding and support of the Council's mission.

The Plan

Goal 2: Organize an annual Utah conference that focuses on sexual violence and comprehensively addresses both victim and perpetrator research and services.

Strategies:

- Identify funding for the conference and an appropriate ad hoc committee or agency to undertake the conference planning responsibilities.
- Plan the conference, including theme, objectives, target audience, and messages, based on needs identified by the Council and its subcommittees.
- Conduct post-evaluation of each conference for quality, comprehensiveness, and timeliness to continually improve each conference and the USVC's ability to identify emerging issues.

Desired Outcomes for Goal 2: To initiate a forum that demands sexual violence be a priority, and allows for an exchange of knowledge and current research on victim and perpetrator services.



The Plan

Goal 3: Create opportunities for research, data collection and reporting of sexual assault incidence and prevalence.

Strategies:

- Initiate a Utah-specific study of rape victimization, barriers to reporting, and perpetrator profiling.
- Expand opportunities to incorporate sexual violence issues into other state-based studies and research.
- Share the findings of Utah’s victimization studies and other surveys and research with local and national partners.

Desired Outcomes for Goal 3: To gather baseline information to assist Council members and the public in understanding and defining the scope of the problem in Utah.



Joanne Zaharis & Ned Searle



Amy Gibbons, Heather Stringfellow, Tracey Hite

The Plan

Goal 4: Increase the rate of reported sexually violent crimes to law enforcement in Utah.

Strategies:

- Explore the barriers to reporting crimes of sexual violence to law enforcement.
- Improve education and training for community members, victims, and professionals within the criminal justice system, including law enforcement, judiciary, prosecution, and advocates.
- Evaluate the Police Officer Standards and Training (POST) curriculum on sexual violence by reviewing content, identifying deficiencies, updating information and data, and determining the number of hours needed to adequately train participants.
- Identify the most effective medium for educating law enforcement officers, including front-line officers, about proper interaction with victims and the handling of sensitive crime evidence. Methods of education to be explored will include Web-based training and interactive teaching methods.
- Increase public education and understanding of the process for reporting sexually violent crimes.
- Create recommendations and a protocol for developing Sexual Assault Response Teams (SARTs) around Utah.



Desired Outcomes for Goal 4: Improve the reporting process for victims and help them understand their rights during the criminal justice process.

The Plan

Goal 5: Improve sexual assault education services statewide.

Strategies:

- Identify all agencies and organizations across the state that provide prevention and education services specific to sexual assault.
- Develop a needs assessment instrument to evaluate the types of education services provided and identify gaps in prevention services.
- Compile and evaluate resources statewide for the prevention of sexual assault.
- Collaborate with UCASA to ensure the 40-hour rape crisis training is current and effective in preparing volunteers and professionals to work with victims of sexual assault.
- Gather current research on sexual assault and distribute it to local rape recovery programs.
- Enlist greater support from Utah's public school administrators and the State Office of Education for curricula addressing the prevention of sexually violent behavior.

Desired Outcomes for Goal 5: To understand the landscape of sexual violence prevention and education in Utah and improve the quality of information being shared with key professionals and the community.

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Goal 6: Improve advocacy for sexual assault victims by creating uniform standards and resources for advocates working with victims of sexual violence.

Strategies:

- Improve communication and relationships among advocates throughout the state.
- Develop protocols and best practices for advocates that are uniform in skill, training, and accreditation requirements.
- Provide a forum for ongoing communication and interaction with other advocates working with sexual assault victims.

Desired Outcomes for Goal 6: To enhance the effectiveness of advocates through uniform training standards and protocols statewide.



Appendices

A. Call to Action

B. Rape Crisis Programs

C. Websites

D. Confidential Communications for Sexual Assault Act

E. Utah Sexual Violence Laws

Call to Action

Call to Action:

The anti-sexual violence movement has traditionally been fragmented along the victim/perpetrator spectrum. With little to no communication or collaboration with human service agencies, victim advocates, corrections, sentencing, education, courts, law enforcement, prosecutors, litigants, and community members engaged in reducing instances of sexual violence, systemic improvements have been scarce and sporadic. The Utah Sexual Violence Council (USVC) unites policy and decision-makers throughout the state. It finally provides a statewide coordinated community response to identify the primary obstacles to and opportunities for improving both intervention and prevention methods for issues of rape.

There are many levels of shame and silence that create a climate that allows sexual violence to increase. Moving solutions to sexual violence from our homes and private conversations into our community centers, administration buildings, churches, courtrooms, and correctional offices signals a shift in our willingness to break the silence of sexually violent crimes in Utah—disintegrating not only the victims’ shame of survival but also the perpetrators’ shame of seeking help for one’s sexually aggressive behaviors. It is our duty to consider the experiences of those we care about. It is our calling to improve the safety of Utah communities. This plan outlines many goals and strategies for addressing sexual violence in our state. There is room at the table for every concerned person to contribute. Consider joining the USVC in finding solutions. The USVC’s Community Collaboration, Prevention, Victim Advocacy, and Criminal Justice Systems subcommittees need your continued input, suggestions, action, and participation to reduce sexually violent crimes through strategies that are thoughtful and comprehensive. Break the silence. Break the cycle. Join the movement.

Utah Rape Crisis Programs

Rape Crisis Programs Statewide, Toll-free 24 hours.....	888-421-1100
Brigham City, YCU.....	435-723-5600
Counties served: Box Elder	
Cedar City, Canyon Creek Women’s Crisis Center.....	435-867-9411
Counties served: Iron, Beaver, Garfield, Kane	
Davis County, Safeharbor.....	801-444-3191
Counties served: Davis	
Logan, CAPSA.....	435-753-2500
Counties served: Cache, Rich	
Moab, Seekhaven.....	435-259-2229
Counties served: Grand, San Juan, Emery	
Ogden, Your Community Connection.....	801-394-9456
Counties served: Weber, Morgan, Davis	
Park City, Summit County Victim Advocates.....	435-658-0510
Counties served: Summit	
Price, Sexual Assault Resource Center.....	435-613-5607
Counties served: Carbon, Emery	
Provo, Center for Women and Children in Crisis.....	801-227-5038
Counties served: Utah, Juab, Wasatch	
Richfield, New Horizons Crisis Center.....	435-896-9295
Counties served: Sevier, Millard, Sanpete, Piute, Wayne	
Roosevelt, Duchesne County Attorney Advocate.....	435-722-0828
Counties served: Duchesne	
Salt Lake City, Rape Recovery Center.....	801-467-7282
Counties served: Salt Lake, Tooele	
St. George, Dove Center.....	435-628-1204
Counties served: Washington, Kane	
Vernal, Vernal Victim Advocates.....	435-789-4250
Counties served: Uintah, Daggett	
Utah Coalition Against Sexual Assault.....	801-746-0404
Supports all Rape Crisis Programs in Utah	
Utah Department of Health, Violence and Injury Prevention Program.....	801-538-6864

Local Program Websites:

CAPSA - Northern Utah (www.capsa.org/)

CWCIC, Sexual Assault Services - Utah Valley (www.cwcic.org/)

New Horizons Crisis Center - Richfield (www.newhorizonscrisiscenter.com/)

Salt Lake City Rape Recovery Center (www.raperecoverycenter.com/)

Vernal Victim Advocate (www.angelfire.com/ut/victimadvocate/)

Your Community in Unity - Box Elder (www.ycube.org)

Statewide Program Websites:

Commission on Criminal and Juvenile Justice (www.justice.utah.gov/)

Utah Coalition Against Sexual Assault (UCASA) (www.ucasa.org)

Utah Men Against Sexual Violence (www.ucasa.org)

Utah Sex Offender Registry (www.corrections.utah.gov)

Violence and Injury Prevention Program (www.health.utah.gov/vipp)

National Program Websites:

National Center for Injury Prevention and Control (www.cdc.gov/ncipc)

National Electronic Network on Violence Against Women (www.vawnet.org/)

National Sexual Violence Resource Center (www.nsvrc.org/)

Rape, Abuse, and Incest National Network (www.rainn.org/)

Confidential Communications Act

“Confidential Communications for Sexual Assault Act.” Utah State Code Section 78

- 78 3c 1** Short title. This act shall be known and may be cited as the “Confidential Communications for Sexual Assault Act.”
- 78 3c 2** Purpose of act. It is the purpose of this act to enhance and promote the mental, physical and emotional recovery of victims of sexual assault and to protect the information given by victims to sexual assault counselors from being disclosed.
- 78 3c 3** Definitions. As used in this chapter:
- (1) “Confidential communication” means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling relationship.
 - (2) “Rape crisis center” means any office, institution, or center assisting victims of sexual assault and their families which offers crisis intervention, medical, and legal services, and counseling.
 - (3) “Sexual assault counselor” means a person who is employed by or volunteers at a rape crisis center who has a minimum of 40 hours of training in counseling and assisting victims of sexual assault and who is under the supervision of the director or designee of a rape crisis center.
 - (4) “Victim” means a person who has experienced a sexual assault of whatever nature including incest and rape and requests counseling or assistance regarding the mental, physical, and emotional consequences of the sexual assault.
- 78 3c 4** Disclosure of confidential communications. The confidential communication between a victim and a sexual assault counselor is available to a third person only when:
- (1) the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim’s parents;
 - (2) the victim is a minor and the minor’s parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure;
 - (3) the victim is not a minor, has given consent, and the counselor believes the disclosure is necessary to accomplish the desired result of counseling; or
 - (4) the counselor has an obligation under Title 62A, Chapter 4, to report information transmitted in the confidential communication.
- 78 19 1.** Definitions. As used in this chapter:
- (1) “Damage or injury” includes physical, nonphysical, economic, and noneconomic damage.
 - (2) “Financially secure source of recovery” means that, at the time of the incident, a nonprofit organization:
 - (a) has an insurance policy in effect that covers the activities of the volunteer and has an insurance limit of not less than the limits established under the Utah Governmental Immunity Act in Section 63 30 34; or
 - (b) has established a qualified trust with a value not less than the combined limits for property damage and single occurrence liability established under the Utah Governmental Immunity Act in Section 63 30 34.
 - (3) “Nonprofit organization” means any organization, other than a public entity, described in Section 501 (c) of the Internal Revenue Code of 1986 and exempt from tax under Section 501 (a) of that code.

Confidential Communications Act

- (4) “Public entity” has the same meaning as defined in Section 63 30b 1.
- (5) “Qualified trust” means a trust held for the purpose of compensating claims for damages or injury in a trust company licensed to do business in this state under the provisions of Title 7, Chapter 5, Trust Business.
- (6) “Reimbursements” means, with respect to each nonprofit organization:
 - (a) compensation or honoraria totaling less than \$300 per calendar year; and
 - (b) payment of expenses actually incurred.
- (7) (a) “Volunteer” means an individual performing services for a nonprofit organization who does not receive anything of value from that nonprofit organization for those services except reimbursements.
 - (b) “Volunteer” includes a volunteer serving as a director, officer, trustee, or direct service volunteer.
 - (c) “Volunteer” does not include an individual performing services for a public entity to the extent the services are within the scope of Title 63, Chapter 30b, Immunity for Persons Performing Voluntary Services or Title 67, Chapter 20, Volunteer Government Workers Act.

78 19 2 Liability protection for volunteers †Exceptions.

- (1) Except as provided in Subsection (2), no volunteer providing services for a nonprofit organization incurs any legal liability for any act or omission of the volunteer while providing services for the nonprofit organization and no volunteer incurs any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:
 - (a) the individual was acting in good faith and reasonably believed he was acting within the scope of his official functions and duties with the nonprofit organization; and
 - (b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal, willful, or wanton misconduct.
- (2) The protection against volunteer liability provided by this section does not apply:
 - (a) to injuries resulting from a volunteer’s operation of a motor vehicle, a vessel, aircraft or other vehicle for which a pilot or operator’s license is required;
 - (b) when a suit is brought by an authorized officer of a state or local government to enforce a federal, state, or local law; or
 - (c) where the nonprofit organization for which the volunteer is working fails to provide a financially secure source of recovery for individuals who suffer injuries as a result of actions taken by the volunteer on behalf of the nonprofit organization.
- (3) Nothing in this section shall bar an action by a volunteer against an organization, its officers, or other persons who intentionally or knowingly misrepresent that a financially secure source of recovery does or will exist during a period when such a source does not or will not in fact exist.
- (4) Nothing in this section shall be construed to place a duty upon a nonprofit organization to provide a financially secure source of recovery.
- (5) The granting of immunity from liability to a volunteer under this section shall have no effect on the liability of the nonprofit organization providing the financially secure source of recovery.

78 19 3. Liability protection for organizations. A nonprofit organization is not liable for the acts or omissions of its volunteers in any circumstance where:

Confidential Communications Act

- (1) The acts of its volunteers are not as described in Subsection 78 19 2 (1) unless the nonprofit organization had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the nonprofit organization under circumstances that make the nonprofit organization's use of the volunteer reckless or wanton in light of that notice; or
- (2) a business employer would not be liable under the laws of this state if the act or omission were the act or omission of one of its employees.

78 24 8. Privileged communications. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:

- (1) (a) Neither a wife nor a husband may either during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage.
 - (b) This exception does not apply:
 - (i) to a civil action or proceeding by one spouse against the other;
 - (ii) to a criminal action or proceeding for a crime committed by one spouse against the other;
 - (iii) to the crime of deserting or neglecting to support a spouse or child;
 - (iv) to any civil or criminal proceeding for abuse or neglect committed against the child of either spouse; or
 - (v) if otherwise specifically provided by law.
- (2) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him or his advice given regarding the communication in the course of his professional employment. An attorney's secretary, stenographer, or clerk cannot be examined, without the consent of his employer, concerning any fact, the knowledge of which has been acquired in his capacity as an employee.
- (3) A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.
- (4) A physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient. However, this privilege shall be deemed to be waived by the patient in an action in which the patient places his medical condition at issue as an element or factor of his claim or defense. Under those circumstances, a physician or surgeon who has prescribed for or treated that patient for the medical condition at issue may provide information, interviews, reports, records, statements, memoranda, or other data relating to the patient's medical condition and treatment which are placed at issue.
- (5) A public officer cannot be examined as to communications made to him in official confidence when the public interests would suffer by the disclosure.
- (6) A sexual assault counselor as defined in Section 78 3c 3 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication as defined in Section 78 3c 3 made by the victim.

Utah Codes Section: Source: http://www.le.state.ut.us/~code/TITLE78/htm/78_06002.htm

76-5-401. Unlawful sexual activity with a minor — Elements — Penalties — Evidence of age raised by defendant.

(1) For purposes of this section “minor” is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, in violation of Section **76-5-402**, object rape, in violation of Section **76-5-402.2**, forcible sodomy, in violation of Section **76-5-403**, or aggravated sexual assault, in violation of Section **76-5-405**, the actor:

(a) has sexual intercourse with the minor;

(b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or

(c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

(3) A violation of Subsection (2) is a third degree felony unless the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, in which case it is a class B misdemeanor.

76-5-402. Rape.

(1) A person commits rape when the actor has sexual intercourse with another person without the victim’s consent.

(2) This section applies whether or not the actor is married to the victim.

(3) Rape is a felony of the first degree.

76-5-401.2. Unlawful sexual conduct with a 16 or 17 year old.

(1) For purposes of this section “minor” means a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in this section occurred.

(2) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to rape, in violation of Section **76-5-402**, object rape, in violation of Section **76-5-402.2**, forcible sodomy, in violation of Section **76-5-403**, or aggravated sexual assault, in violation of Section **76-5-405**, the actor who is ten or more years older than the minor at the time of the sexual conduct:

(a) has sexual intercourse with the minor;

(b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or

(c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

(3) A violation of Subsection (2) is a third degree felony.

76-5-401.1. Sexual abuse of a minor.

(1) For purposes of this section “minor” is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits sexual abuse of a minor if the person is seven years or more older than the minor and, under circumstances not amounting to rape, in violation of Section **76-5-402**, object rape, in violation of Section **76-5-402.2**, forcible sodomy, in violation of Section **76-5-403**, aggravated sexual assault, in violation of Section **76-5-405**, unlawful sexual activity with a minor, in violation of Section **76-5-401**, or an attempt to commit any of those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause

substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) A violation of this section is a class A misdemeanor.

76-5-402.1. Rape of a child.

(1) A person commits rape of a child when the person has sexual intercourse with a child who is under the age of 14.

(2) Rape of a child is a first degree felony punishable by imprisonment for an indeterminate term of not less than 6, 10, or 15 years and which may be for life. Imprisonment is mandatory in accordance with Section **76-3-406**.

76-5-402.2. Object rape.

A person who, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person, commits an offense which is punishable as a felony of the first degree.

76-5-402.3. Object rape of a child — Penalty.

(1) A person commits object rape of a child when the person causes the penetration or touching, however slight, of the genital or anal opening of a child who is under the age of 14 by any foreign object, substance, instrument, or device, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the child or with the intent to arouse or gratify the sexual desire of any person.

(2) (a) Object rape of a child is a first degree felony punishable by imprisonment for an indeterminate term of not less than 6, 10, or 15 years and which may be for life.

(b) Imprisonment is mandatory in accordance with Section **76-3-406**.

76-5-403. Sodomy — Forcible sodomy.

(1) A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant.

(2) A person commits forcible sodomy when the actor commits sodomy upon another without the other's consent.

(3) Sodomy is a class B misdemeanor. Forcible sodomy is a felony of the first degree.

76-5-403.1. Sodomy on a child.

(1) A person commits sodomy upon a child if the actor engages in any sexual act upon or with a child who is under the age of 14, involving the genitals or anus of the actor or the child and the mouth or anus of either person, regardless of the sex of either participant.

(2) Sodomy upon a child is a first degree felony punishable by imprisonment for an indeterminate term of not less than 6, 10, or 15 years and which may be for life. Imprisonment is mandatory in accordance with Section **76-3-406**.

76-5-404. Forcible sexual abuse.

(1) A person commits forcible sexual abuse if the victim is 14 years of age or older and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with another, or causes another to take indecent liberties with the actor or another, with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, without the consent of the other, regardless of the sex of any participant.

(2) Forcible sexual abuse is a felony of the second degree.

76-5-404.1. Sexual abuse of a child — Aggravated sexual abuse of a child.

(1) A person commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child younger than 14 years of age, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(2) Sexual abuse of a child is punishable as a second degree felony.

(3) A person commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (1) any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the offense was committed by the use of a dangerous weapon as defined in Section **76-1-601**, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;

(b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;

(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;

(e) the accused, prior to sentencing for this offense, was previously convicted of any felony, or of a misdemeanor involving a sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by a person who occupied a position of special trust in relation to the victim; "position of special trust" means that position occupied by a person in a position of authority, who, by reason of that position is able to exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, employer, foster parent, baby-sitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent;

(i) the accused encouraged, aided, allowed, or benefited from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(4) Aggravated sexual abuse of a child is a first degree felony punishable by imprisonment for an indeterminate term of not less than five years and which may be for life. Imprisonment is mandatory in accordance with Section **76-3-406**.

76-5-405. Aggravated sexual assault — Penalty.

(1) A person commits aggravated sexual assault if in the course of a rape or attempted rape, object rape or attempted object rape, forcible sodomy or attempted forcible sodomy, or forcible sexual abuse or attempted forcible sexual abuse the actor:

(a) causes bodily injury to the victim;

(b) uses or threatens the victim with use of a dangerous weapon as defined in Section **76-1-601**;

(c) compels, or attempts to compel, the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person; or

(d) is aided or abetted by one or more persons.

(2) Aggravated sexual assault is a first degree felony punishable by imprisonment for an indeterminate term of not less than 6, 10, or 15 years and which may be for life. Imprisonment is mandatory in accordance with Section **76-3-406**.

76-5-406. Sexual offenses against the victim without consent of victim — Circumstances.

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy upon a child, attempted sodomy upon a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4) “to retaliate” includes but is not limited to threats of physical force, kidnaping, or extortion;

(5) the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim’s spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim’s knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim’s parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Subsection **76-5-404.1(3)(h)**;

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested. For purposes of this Subsection (12):

(a) “health professional” means an individual who is licensed or who holds himself out to

be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker,

certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

76-5-407. Applicability of part — “Penetration” or “touching” sufficient to constitute offense.

(1) The provisions of this part do not apply to consensual conduct between persons married to each other.

(2) In any prosecution for:

(a) the following offenses, any sexual penetration, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section **76-5-401**, involving sexual intercourse;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Subsection **76-5-401.2**, involving sexual intercourse; or

(iii) rape, a violation of Section **76-5-402**; or

(b) the following offenses, any touching, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section **76-5-401**, involving acts of sodomy;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section **76-5-401.2**, involving acts of sodomy;

(iii) sodomy, a violation of Subsection **76-5-403(1)**;

(iv) forcible sodomy, a violation of Subsection **76-5-403(2)**;

(v) rape of a child, a violation of Section **76-5-402.1**; or

(vi) object rape of a child, a violation of Section **76-5-402.3**.

(3) In any prosecution for the following offenses, any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of the offense:

(a) sodomy on a child, a violation of Section **76-5-403.1**; or

(b) sexual abuse of a child or aggravated sexual abuse of a child, a violation of Section **76-5-404.1**.

76-5-412. Custodial sexual relations — Custodial sexual misconduct — Definitions — Penalties — Defenses.

(1) As used in this section:

(a) “Actor” means:

(i) a correctional officer, as defined in Section **53-13-104**;

(ii) a law enforcement officer, as defined in Section **53-13-103**; or

(iii) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.

(b) “Person in custody” means a person, either an adult 18 years of age or older, or a minor younger than 18 years of age, who is:

(i) a prisoner, as defined in Section **76-5-101**, and includes a prisoner who is in the custody of the Department of Corrections created under Section **64-13-2**, but who is being housed at the Utah State Hospital established under Section **62A-15-601** or other medical facility;

(ii) under correctional supervision, such as at a work release facility or as a parolee or probationer; or

(iii) under lawful or unlawful arrest, either with or without a warrant.

(c) “Private provider or contractor” means any person or entity that contracts with the Department of Corrections or with a county jail to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.

(2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor’s position should have known under the circumstances that the individual was a person in custody.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the person in custody is younger than 18 years of age, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a person in custody;

(b) engaging in any sexual act with a person in custody involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor’s position should have known under the circumstances that the individual was a person in custody.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the person in custody is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant:

- (a) touching the anus, buttocks, or any part of the genitals of a person in custody;
- (b) touching the breast of a female person in custody;
- (c) otherwise taking indecent liberties with a person in custody; or
- (d) causing a person in custody to take indecent liberties with the actor or another person.

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

- (a) Section **76-5-401**, unlawful sexual activity with a minor;
- (b) Section **76-5-402**, rape;
- (c) Section **76-5-402.1**, rape of a child;
- (d) Section **76-5-402.2**, object rape;
- (e) Section **76-5-402.3**, object rape of a child;
- (f) Section **76-5-403**, forcible sodomy;
- (g) Section **76-5-403.1**, sodomy on a child;
- (h) Section **76-5-404**, forcible sexual abuse;
- (i) Section **76-5-404.1**, sexual abuse of a child or aggravated sexual abuse of a child; or
- (j) Section **76-5-405**, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations under Subsection (2) or custodial sexual misconduct under Subsection (4), or an attempt to commit either of these offenses, if the person in custody is younger than 18 years of age, that the actor:

(i) mistakenly believed the person in custody to be 18 years of age or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection **76-2-302(1)**.

Rape Recovery Program Services Statewide

Hospital Response Team 

Crisis Line 

Support Groups 

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