APPENDIX F. CONSIDERATIONS FOR WORKING WITH EXPERTS

ISSUE(S)	TYPE OF EXPERT & WHERE TO FIND THEM
DNA	
Note: Every DNA test involves multiple steps and multiple analysts. How many analysts must be called to testify, for purposes of avoiding confrontation issues, is something of an open question after *Williams v. Illinois*.[21] Generally speaking, at least the lead analyst for each testing procedure should be called to testify. For suggestions on alternatives where one or more of the original analysts who performed the testing are not available for trial, *Williams v. Illinois and Forensic Evidence: The Bleeding Edge of Crawford*,[22] provides suggested strategies to avoid or minimize the risk presented by confrontation issues at trial or on appeal.	
• Explanation of science involved in DNA • Explanation of testing procedures • Application of DNA science to the case • Reliability of results • Significance of results • Interpretation when there are multiple DNA contributors in a sample • Inability to test • Contamination issues • Quantity of sample needed for testing • Explanation for non-testing; significance of lack of DNA evidence • Touch DNA	• State lab • Private DNA lab • Molecular biology department of college or university (regarding various techniques or other issues not specific to the actual test at issue)
Forensics Trace Evidence (hair, fiber); Firearms and Toolmark Identification (comparing bullets, cartridges and shells to firearms); Ballistics	
Note: These types of evidence are less reliable than DNA; nevertheless, such evidence may provide helpful investigative leads and may be useful at trial as long as the expert avoids drawing conclusions suggesting the evidence is more definitive than it is. Forensic expertise on fingerprints, blood spatter, handwriting, tire marks, shoe prints, and bite marks may also be relevant.	
• Significance of findings • Comparison of discharged ammunition cartridges with firearm • Trajectory and distance at the time gun was fired	• State Police lab • FBI • Academics teaching forensic science in criminal justice program at university or college

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Significance of injury/absence of physical injury
Details of SAFE/SANE exam
Purpose of various steps in exam
Significance of any findings or absence of findings (e.g., where victim has showered or engaged in other activities between time of assault and time of exam)
Effect on SAFE/SANE exam or findings when victim has engaged in consensual sexual activity since assault
Whether wound or impression on skin is consistent with object or weapon used by offender or belonging to victim (e.g., ligature marks, impressions from jewelry, knife injuries)
Strangulation injury signs, symptoms, mechanism
Strangulation lethality risk
Homicide (whether victim was assaulted before/after death)

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SAFE/SANE (in certain circumstances you will want the nurse or health care professional who performed the exam); SAFE/SANE with training in strangulation injury
ER physician trained in sexual assault and/or strangulation
Forensic pathologist
Gynecologist trained in sexual assault
Medical examiner
Medical member of high-risk DV team
Academic affiliated with college or university (e.g., medical school)

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<tr><th colspan="2">Offender Behavior</th></tr>
<tr><td colspan="2">Note: Experts can be of assistance in understanding the dynamics surrounding the victim/offender relationship or in understanding how the crime occurred, as well as for purposes of imposing bail conditions or sentencing. “Profile” testimony is generally inadmissible at trial but prosecutors should check their jurisdiction’s rules of evidence and case decisions for the parameters relating to testimony about offender behavior.</td></tr>
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Explanation of victimization techniques (e.g., “grooming” the victim through isolation, promises, gifts, providing drugs or alcohol)
Evidence of prior sexual assault(s) exhibiting similar victimization techniques
Lethality risk associated with intimate partner sexual violence

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Academic affiliated with college or university (e.g., sociology; psychology, criminology, women’s studies)
Counselor/therapist who works with sex offenders or batterers (for intimate partner sexual violence)
DV advocate/counselor trained in lethality assessment
Member of high-risk DV team

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Technology	
• Explanation of the role of any technology used before, during, or after the crime (*e.g.*, video recording of the assault, unauthorized dissemination of consensual or nonconsensual intimate photographs, cyberbullying following assault) • Victim reactions to the trauma of tech-facilitated sexual assault • Authentication of digital evidence • Source of communication (linking communication to offender) • Interpretation of results of forensic exam of devices • Interpretation of records maintained by service provider or social media platform	• Trained/experienced law enforcement officer • Counselor/advocate/therapist with experience working with victims of stalking, non-consensual pornography, or other crimes of image exploitation • Forensic technology expert (local or state police, federal law enforcement from FBI, Secret Service, or HSI, or privately retained) • Service providers (*e.g.*, AT&T, Comcast) • Social media providers (*e.g.*, Facebook, Instagram)
Toxicology	
• Identification of type of intoxicant (alcohol, particular drugs) • Degree of intoxication of individual (victim, offender, witness) • Effects of intoxicant on body/mind (*e.g.*, ability to consent, ability to obtain/maintain erection, ability to recall, ability to form intent)	• State police lab toxicologist • Physician with specialized training • Forensic toxicologist

Victim Behavior	
• Delayed or piecemeal reporting • Recantation/minimization • Inconsistent statements • Subsequent consensual sexual activity with offender or others • Continued contact with offender • Absence of physical resistance • Rapid return to normal activities • Victim affect (*e.g.,* laughter, calmness)	• Counselor/advocate/therapist (one not working with victim; possibly from neighboring jurisdiction) • Shelter director (particularly for intimate partner violence) • Sexual violence coalition • Academic affiliated with college or university (*e.g.,* sociology, psychology, women's studies) • Psychologist/psychiatrist with expertise in trauma and sexual violence • SANE/SAFE • Trained/experienced law enforcement officer
Victim with Cognitive Disability	
• Competence to testify • Capacity to consent • Sexual knowledge beyond that expected of a person with the victim's age, experience, or cognitive function • Explaining particular disabilities • Identifying accommodations that would allow a witness to testify	• Academia (professor/researcher on congnitive disabilities) • Disabilities rights organizations (*e.g.*, Temple Institute on Disabilities, The Arc) • Speech pathologist • Psychiatrist/psychologist • Social worker

[21] 132 S. Ct. 2221 (2012). For an in-depth discussion of these considerations, *see* Teresa M. Garvey, Williams v. Illinois *and Forensic Evidence: The Bleeding Edge of* Crawford, 11 Strategies (June 2013), *available at* https://gcs-vimeo.akamaized.net/exp=1574298615~acl=%2A%2F722183941.mp4%2A~hmac=ac0302098e5a47480d7142ca4314a7f92ccdf5f83d610be5244fad170865b867/vimeo-prod-skyfire-std-us/01/2125/8/210626104/722183941.mp4.

[22] *Id.*