

# TEXAS EVIDENCE COLLECTION PROTOCOL



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**PROVIDED BY**

Texas A&M College of Nursing  
Texas Attorney General Sexual Assault  
Prevention and Crisis Services Program



TEXAS A&M UNIVERSITY  
College of Nursing

# **TEXAS EVIDENCE COLLECTION PROTOCOL**

## **INTRODUCTION**

This protocol provides recommendations to medical, legal, law enforcement, advocacy and forensic science professionals on the identification, collection and preservation of physical evidence and the minimization of physical and psychological trauma to the patients who present after sexual assault, as designated by Chapter 420, Texas Government Code.

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# CONTENTS

	<i>Page</i>
Introduction.....	i
Texas Evidence Collection Advisory Board Members.....	ii
Contents .....	iv
Purpose.....	1
Key Points of Protocol.....	2
Definitions.....	4
Patient Definitions.....	4
Adolescent.....	4
Adult .....	4
Prepubertal (Pediatric) Child.....	4
Elderly Individual.....	4
Medical and Forensic Terminology .....	5
Injuries.....	5
Sexual Organ Terminology .....	6
Anal/Rectal Medical Terminology.....	9
Multidisciplinary Team Members.....	10
Non-Military Team Members .....	10
Military Team Members .....	12
Military Forensic Medical Assessments .....	12
Medical and Forensic Assessment Terminology .....	14
Sexual Assault Response Teams (SART).....	15
Non-Military Patients.....	15
Military Patients.....	16
Legal References.....	17
United States Code.....	17
Texas Statutes.....	18
Recommended Equipment and Space.....	20
Patient-Centered Care .....	22
Presence of an Advocate.....	24
Use of Interpreters.....	25
Culturally Sensitive Care .....	26

Options for Adult Sexual Assault Treatment.....	27
Military and Adult Military Dependents.....	27
Options for Adult Sexual Assault Treatment (Non-Military).....	29
Adult/Adolescent Protocol.....	32
Introduction.....	32
Adult/Adolescent Forensic Medical Assessment.....	33
Intake Medical Personnel.....	33
Medical Forensic Examiner.....	34
Prepubertal Pediatric Protocol.....	46
Introduction.....	46
Prepubertal Forensic Medical Assessment and Examination.....	48
Intake Medical Personnel.....	48
Medical Forensic Examiner.....	49
Military Forms.....	60
Health Insurance Portability and Accountability (HIPAA) Act of 1996.....	61
Key Points.....	61
Photographs.....	63
Consent.....	65
Forensic Medical Assessment Documentation.....	67
Patient’s History of the Incident(s).....	67
Sexual Assault Forensic Medical Assessment Documentation.....	69
Injury Documentation.....	69
Photographic Documentation.....	70
Documentation of Assessment Findings, Concerns and Treatment Plan.....	72
Chain of Custody.....	73
Medical Treatment of Patient.....	74
Sexually Transmitted Diseases.....	74
Pregnancy Prophylaxis.....	75
HIV Non-Occupational Post-Exposure Prophylaxis (HIV nPEP).....	77
Risk Assessment for Children within 72 Hours of Sexual Assault.....	77
HIV Follow-up Care.....	78
Quick Links to the Guidelines.....	78
Treatment of Other Injuries and Medical Conditions.....	78
Suspects.....	80
Forensic Care of Suspects.....	80
Patients Who Are in Texas Department of Criminal Justice Facilities.....	82
Patients Who Are in Youth Detention, also known as a Juvenile Detention Center.....	83
Patients Who Are in the County Jail.....	84
Elderly Patients Who Are Sexually Assaulted.....	85

Patients with Disabilities.....	86
Mandatory Reporting .....	86
Key Considerations for Patients with a Disability .....	86
Patients Who Identify as LGBTQ+ .....	88
Resources .....	88
Patients Experiencing Interpersonal Violence .....	89
Adult Males.....	90
Treatment .....	90
Pregnant Patients.....	92
Native American Patients .....	94
Policy 94	
Training.....	94
Other Resources .....	94
Drug-Facilitated Sexual Assault .....	96
Key Points .....	96
Strangulation.....	97
Key Points .....	97
Unconscious Patients .....	99
Human Trafficking.....	100
Mandatory Reporting for Suspected Human Trafficking .....	100
Possible Questions to Ask Patients Who May Be Trafficked.....	101
Texas Department of Family and Protective Services Role in Sex Trafficking of Children/Youth.....	101
Responsibilities of the DFPS Human Trafficking and Child Exploitation Team .....	102
Commercial Sexual Exploitation—Identification Tool (CSE-IT) .....	102
National Human Trafficking Hotline .....	102
Post-Mortem Considerations .....	103
Discharge, Follow-up and Ongoing Patient Care .....	104
Medical Care Key Points .....	104
Advocacy Key Points.....	105
Counseling Key Points.....	105
Texas Department of Health and Human Services Information Sheet for Sexual Assault Patients.....	106
Appendix A Texas Crime Victims’ Bill of Rights.....	107
Appendix B Crime Victims’ Compensation.....	112

Appendix C Nursing Concerns for Patients Who Report Sexual Assault .....	113
Appendix D References .....	114

### **LIST OF FIGURES**

	<i>Page</i>
Image One: Medical Forensic Terminology: Female Sexual Organ .....	6
Image Two: Medical Forensic Terminology: Male Sexual Organ .....	8
Medical Forensic Terminology: Anus .....	9
Adult/Adolescent Assessment Flowsheet .....	45
Prepubertal Pediatric Assessment Flowsheet.....	59



## PURPOSE

The purpose of this protocol is to offer guidance for health care professionals in Texas providing forensic medical assessments for persons who present with concern for, or history of, sexual victimization, or for assessment of those who are suspected of committing sexual offenses.

A timely, comprehensive assessment, conducted as part of a coordinated, multidisciplinary approach, helps to optimize the provision of consistent health care and minimize additional trauma to the patient. It additionally facilitates proper recognition, documentation, collection, preservation and transmission of forensic evidence.

**This document is meant to serve as a reference. It establishes minimum requirements for forensic medical care for patients when there is a concern for sexual assault or other sex offenses within the state of Texas.** Patient presentation, including medical history, physical assessment, current evidence-based practice and age-appropriate patient consent should guide the individual patient care provided. Facilities and communities that have created their own forensic medical records should continue to use those records, as long as they meet the minimum requirements set forth in this protocol.

A collaborative response to sexual assault is strongly recommended and has many benefits. A collaborative response to sexual assault has been shown to:

- “Enhance the quality of health care for individuals who have been sexually assaulted;
- Improve the quality of forensic evidence;
- Increase law enforcement’s ability to collect information, file charges, and refer an investigation to prosecution; and
- Increase prosecution rates over time” (U.S. Department of Justice [DoJ], 2017, p. 15).

## KEY POINTS OF PROTOCOL

This protocol offers basic information for examiners. However, the key points are highlighted below. Each point is covered extensively within this protocol document.

1. **Sexual assault is a trauma, regardless of the presence of physical injuries.** Health care providers can help reduce the neurobiological response to trauma by providing trauma-informed care that restores safety, security and control to patients.
2. **Treat emergent medical conditions before, or concurrently to, addressing forensic issues such as evidence collection.**
3. **Non-fatal strangulation is a life-threatening event that requires specialized assessment and close patient monitoring.**
4. **Patients guide the assessment process and have the right to decline any part, or all, of the examination and evidence collection.**
5. Use open-ended questions that allow patients to provide their narrative of what occurred.
6. In all patient interactions, it is important to maintain confidentiality of forensic medical information and documentation. The Health Insurance Portability and Accountability Act (HIPAA) applies to this patient population.
7. Offering access to a sexual assault advocate during the forensic medical assessment is mandated by Texas law. This advocate is distinct and separate from health care, law enforcement and judicial personnel.
8. Mandatory reporting is required for suspected abuse of children, the elderly, or a person with a disability, regardless of the wishes of the patients, their families or friends.
9. Child patients and patients who are suspected perpetrators should always be seen by a forensic expert (sexual assault nurse examiner, forensic nurse examiner, child abuse pediatrician or specially trained medical forensic professional).
10. During the examination and evidence collection process, avoid contamination of potential evidentiary items. After all the evidence and clothing have been collected by the health care provider and sealed appropriately, evidence should be opened only by crime laboratory personnel.
11. Role confusion can occur when caring for suspected perpetrators and survivors of trauma. Practitioners should be diligent about staying within their own professional practice guidelines.

12. It is critical that adult military-affiliated survivors receive information about their reporting options from a person knowledgeable of the Department of Defense policy that defines reporting choices to ensure the patients' rights are not violated.
13. Policies should be in place regarding the process for obtaining photographs; the method used to identify the patient in the photographs; and documentation that the photographs exist in the permanent medical record for each patient.
14. The sexual assault evidence collection kit (SAEK) does not have to be used for a sexual assault examination to occur. SAEKs should be used only when indicated.

## DEFINITIONS

### PATIENT DEFINITIONS

#### **Adolescent:**

“Adolescents” are defined in this protocol as children under 18 years of age, who have reached puberty. “While the physical developmental level of these patients” is similar to that of an adult and “must be taken into account when performing the exam, these patients should otherwise be treated as adolescents rather than children” (DoJ, 2013, p. 14).

#### **Adult:**

“Person who is not a child” (Texas Family Code §101.003, 1995).

#### **Prepubertal (pediatric) child:**

For the purposes of this protocol, “the pediatric population are prepubescent children” (meaning those children under 18 years of age who have not reached puberty). “A child’s stage of pubertal development is determined by assessing secondary sexual characteristics rather than chronological age. Although the onset and timeline of the pubertal process is unique to each child, the stages are identifiable and predictable” (DoJ, 2016, p. 9).

#### **Elderly individual:**

“Person 65 years of age or older” (Texas Penal Code §22.04, 2017).

## **MEDICAL AND FORENSIC TERMINOLOGY**

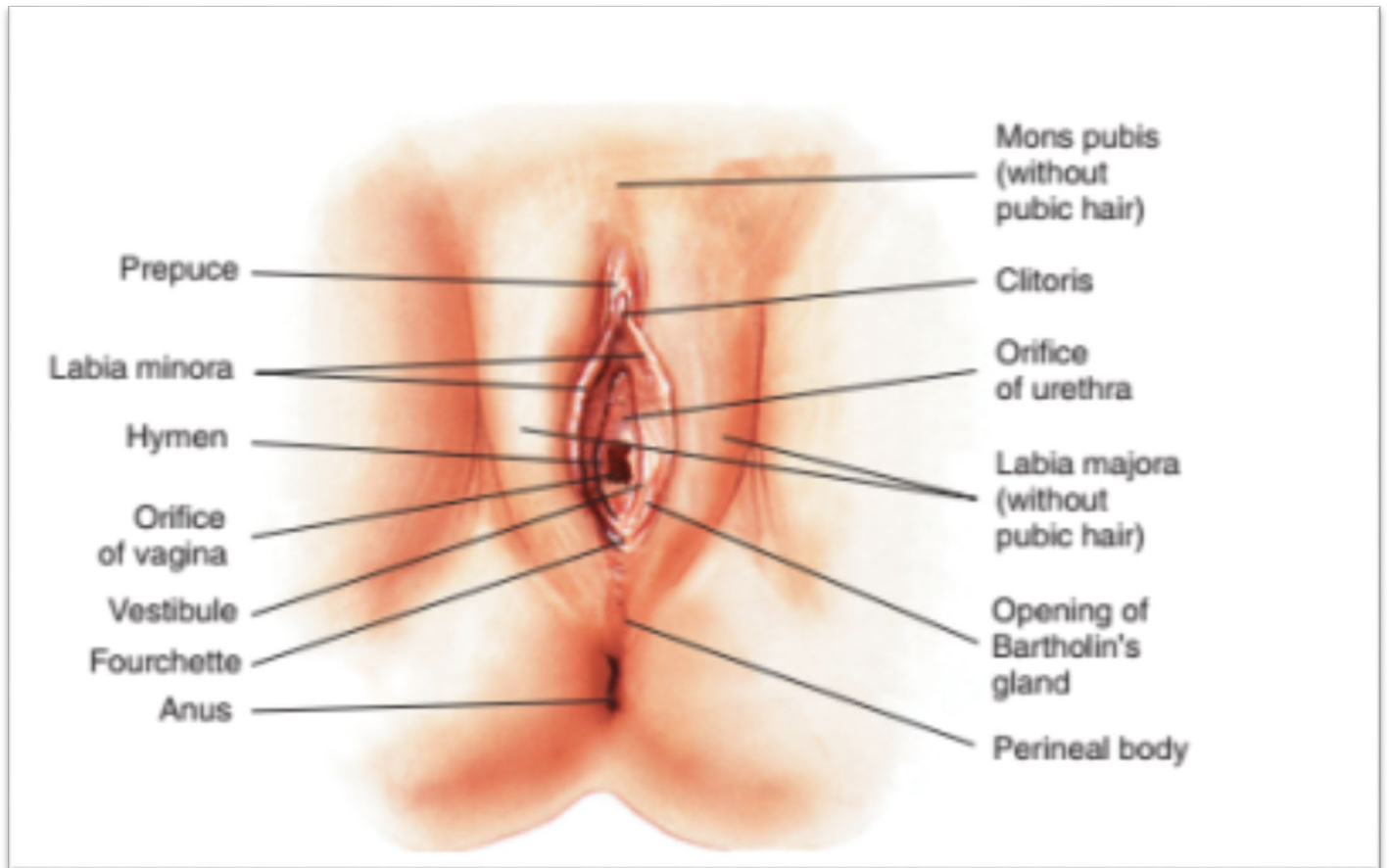
Consistent use of terminology and measurement is important for accurate documentation of sexual assault forensic medical assessment findings. See page 69 for documentation of injuries.

### **Injuries**

1. **Abrasion:** “Scraping type of injury” that is superficial damage to skin or mucous membrane (James, Nordby, & Bell, 2014, p. 563).
2. **Bruise:** Bleeding beneath the surface of the skin; an accumulation of blood in the tissues outside of the blood vessels” (James et al., 2014, p. 567).
3. **Contusion:** A bruise (see above).
4. **Cut:** “An opening in the skin that occurs when a sharp object comes into contact with skin or tissues with enough pressure to divide it” (Faugno, Copeland, Crum & Speck, 2012, p. 1). Cut is not the same as a laceration or tear.
5. **Laceration or tear:** Injury that occurs when the “skin is broken and disrupted by blunt force such as tearing, ripping, crushing, overstretching, pulling apart, over-bending, or shearing of tissue” (Faugno et al., 2012, p. 1).
6. **Petechiae:** “Multiple hemorrhagic spots, pinpoint to pinhead in size” (Faugno et al., 2012, p. 1).
7. **Scar:** “Fibrous tissue that replaces normal tissue after the healing of a wound” (U.S. Army Medical Department Center and School [AMDCS] [DoD], 2017).

## Sexual Organ Terminology

**Image One: Medical Forensic Terminology: Female Sexual Organ**  
(As defined by Texas Penal Code §21.01  
<https://statutes.capitol.texas.gov/docs/pe/htm/pe.21.htm>)

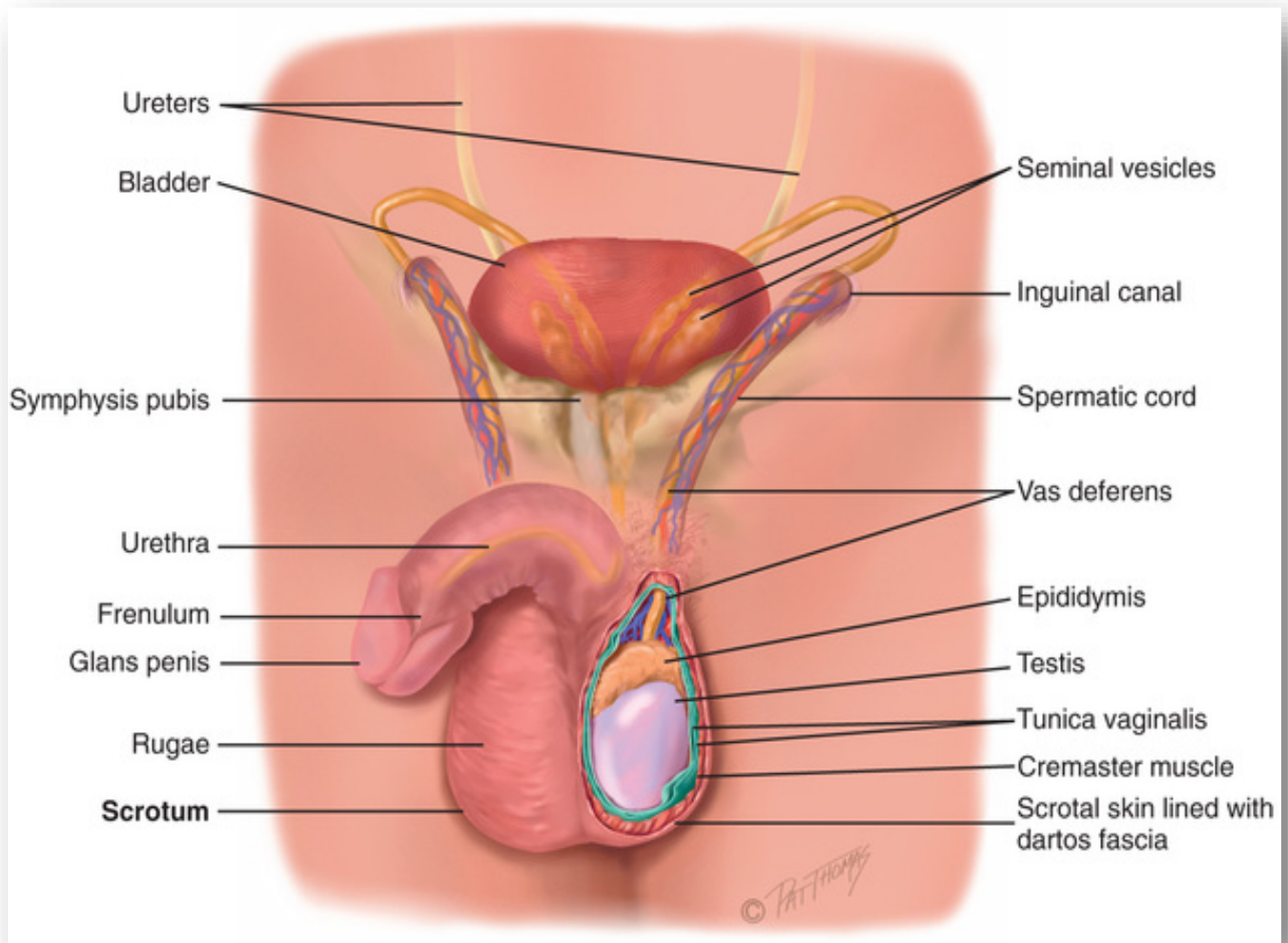


(This image was published in *Seidel's guide to physical examination*, 8<sup>th</sup> ed., Ball, Dains, Flynn, Solomon, & Stewart, External female genitalia, p. 417, Copyright Elsevier, 2015).

1. **Cervical os:** "Opening in the cervix that leads to the endometrial cavity of the uterus" (Faugno et al., 2012, p. 4).
2. **Cervix:** "Inferior portion of the uterus;" between the body of the uterus and the vagina (Miranda, 2017, para. 24).
3. **Clitoral hood:** "A fold of skin covering the clitoris" (Faugno et al., 2012, p. 4).
4. **Clitoris:** "A small, cylindrical erectile body at the anterior portion of the vulva, covered by the clitoral hood" (Faugno et al., 2012, p. 4).

5. **Hymen:** “A collar or semi-collar of tissue surrounding the vaginal orifice” (Faugno et al., 2012, p. 4).
6. **Labia majora:** “Two folds of skin on either side of the labia minora. This area usually is covered with hair that appears during puberty” (Faugno et al., 2012, p. 4).
7. **Labia minora:** “The longitudinal thin folds of non-keratinized skin medial to the labia majora. The labia minora are hairless but have many sensory nerve endings that engorge when stimulated” (Faugno et al., 2012, p. 4).
8. **Mons pubis:** “Rounded fleshy prominence created by adipose tissue overlying the pubic symphysis bone” (Faugno et al., 2012, p. 4).
9. **Perineum:** “The external surface or base of the perineal body” between the vulva or scrotum and the anus (Faugno et al., 2012, p. 6).
10. **Posterior fornix:** Annular area in the vagina around the outside of the cervix (Harris, Nagy, & Vardaxis, 2009).
11. **Posterior fourchette:** “Area where labia minora meet posteriorly” (Faugno et al., 2012, p. 4).
12. **Urethral meatus:** “External opening of the urethral tube” (Faugno et al., 2012, p. 5).
13. **Vagina:** “Muscular canal extending from the cervix to the hymen (Faugno et al., 2012, p. 5).
14. **Vulva:** “An area of the female genitalia lying posterior to the mons pubis that includes the labia majora, labia minora, clitoris, vaginal vestibule, vaginal introitus, and Bartholin’s glands” (Faugno, Mitchell, Ingram-Jones, & Speck, 2018, p. 5).

**Image Two: Medical Forensic Terminology: Male Sexual Organ**  
**(As defined by Texas Penal Code §21.01**  
**<https://statutes.capitol.texas.gov/docs/pe/htm/pe.21.htm>**)



(This image was published in *Physical examination & health assessment*, 7<sup>th</sup> ed., Jarvis, Image 24-2 Male genitalia, p. 692, Copyright Elsevier, 2016).

1. **Corona:** “The rounded, prominent board of the glans on the distal portion of the penile shaft” (Faugno et al., 2012, p. 3).
2. **Glans (glans penis):** The cap-shaped expansion of corpus spongiosum at the distal end of the penis” (Faugno et al., 2012, p. 3).
3. **Penile shaft:** “Part of the penis between the glans and the body” (Faugno et al., 2012, p. 3).



4. **Perineum:** “The external surface or base of the perineal body” between the vulva or scrotum and the anus (Faugno et al., 2012, p. 6).
5. **Scrotum:** “Pouch containing the testicles and their accessory organs” (Faugno et al., 2012, p. 3).
6. **Urethral meatus:** “External opening of the urethral tube” (Faugno et al., 2012, p. 5).

### Anal/Rectal Medical Terminology

#### **Medical Forensic Terminology: Anus**

1. **Anal canal:** “Terminal part of the large intestine, sensitive to pain, surrounded by sphincter muscles, and without lubricating glands” (Faugno et al., 2018, p. 6).
2. **Anal fold:** “Anal folds form from the border of the anus” (Harris et al., 2009).
3. **Anus:** “Opening of anal canal” (Faugno et al., 2012, p. 6).
4. **Anal verge:** “The distal end of the anal canal, overlies the subcutaneous tissue of the external anal sphincter and extends exteriorly to the margin of anal skin” (Faugno et al., 2018, p. 6).
5. **Pectinate (or dentate) line:** “Saw-toothed line of demarcation between the lower portion of the anal verge and the pectin, a smooth zone of stratified squamous epithelium extending to the anal verge” (Faugno et al., 2018, p. 6).
6. **Rectum:** “The distal portion of the large intestine, beginning anterior to the third sacral vertebra” (Faugno et al., 2018, p. 6).

## MULTIDISCIPLINARY TEAM MEMBERS

### 1. NON-MILITARY TEAM MEMBERS

- a. **Non-Military:** Refers to anyone who is not active duty military.
- b. **Advocate:** Volunteer or paid professional who understands sexual violence and victim dynamics and can address with expertise the long-term needs of patients who report sexual assault. May serve military or civilian families. Texas Government Code §420.003 (<https://statutes.capitol.texas.gov/docs/GV/htm/GV.420.htm>) and Texas Code of Criminal Procedure §56.045 (<https://statutes.capitol.texas.gov/SOTWDocs/CR/htm/CR.56.htm>) describe presence of an advocate and mandatory training requirements. Similar to military victim advocate, see below.
- c. **Chaplain:** Volunteer or paid professional who offers support to victims or suspects of sexual violence, and who understands that the patient guides any spiritual discussions.
- d. **Child Abuse Pediatrician (CAP):** Pediatricians “with special training, experience, and skills in evaluating children who may be victims of some type of abuse or neglect” (Healthy Children, 2015, para. 1).
- e. **Medical Forensic Examiner:** For the purposes of this protocol, medical forensic examiner is defined as a licensed medical professional (sexual assault nurse examiner, child abuse pediatrician, registered nurse, nurse practitioner, physician’s assistant or physician) who has taken the minimum two hours of education on forensic evidence collection and cares for patients who report sexual assault or when there is a concern that sexual assault occurred [Texas Board of Nursing, 2013, Rule 216.3(d)(1) ([http://www.bon.texas.gov/rr\\_current/216-3.asp](http://www.bon.texas.gov/rr_current/216-3.asp)); Texas Medical Board, 2018, Rule 166.2(a)(4) (<http://www.tmb.state.tx.us/idl/3E399486-3B51-843A-AAD2-E67B31810FB0>)]. (See [adult/adolescent](#) and [pediatric](#) protocols.)
- f. **Sexual Assault Nurse Examiner (SANE):** “A registered nurse specially trained to provide the forensic/medical examination and evaluation of sexual trauma while maximizing the collection of biological, trace and physical evidence and minimizing the patient’s emotional trauma” (Lynch, 2011, p. 16). SANEs have extensive training on laws, sexual violence, trauma-informed care and evidence collection.

- g. **Forensic nursing:** “Forensic nursing science combines the concepts and principles of the traditional forensic sciences and those of nursing in the clinical investigation of trauma and the recovery of medical evidence” (Lynch & Duval, 2011).
- h. **Basic forensically trained medical professional:** A licensed medical professional (registered nurse, nurse practitioner, physician’s assistant or physician) who has taken the minimum two hours of education on forensic evidence collection [Texas Board of Nursing, 2013, Rule 216.3(d)(1) ([http://www.bon.texas.gov/rr\\_current/216-3.asp](http://www.bon.texas.gov/rr_current/216-3.asp)); Texas Medical Board, 2018, Rule 166.2(a)(4) (<http://www.tmb.state.tx.us/idl/3E399486-3B51-843A-AAD2-E67B31810FB0>)].
- i. **Specially trained forensic medical professional:** A licensed medical professional (registered nurse, nurse practitioner, physician’s assistant or physician) who has taken additional forensic training to prepare to care for this specialty population beyond what is required by Texas statute [Texas Board of Nursing, 2013, Rule 216.3(d)(1) ([http://www.bon.texas.gov/rr\\_current/216-3.asp](http://www.bon.texas.gov/rr_current/216-3.asp)); Texas Medical Board, 2018, Rule 166.2(a)(4) (<http://www.tmb.state.tx.us/idl/3E399486-3B51-843A-AAD2-E67B31810FB0>)]. A SANE has more medical forensic training than a specially trained medical forensic professional.
- j. **Certified forensically trained nurse:** A licensed registered nurse or nurse practitioner who demonstrates competence through achieving certification. For the purposes of this protocol, certification includes:
  - i. Attorney General of Texas currency of practice certifications  
<https://www.texasattorneygeneral.gov/crime-victims/information-crime-victim-advocates/sexual-assault-prevention-and-crisis-services-sapcs/sexual-assault-nurse-examiner-sane-certification>:
    - a) Certified Adult/Adolescent SANE (CA-SANE),
    - b) Certified Pediatric SANE (CP-SANE), or
    - c) Certified Adult/Adolescent and Certified Pediatric SANE (CA-CPSANE).
  - ii. IAFN certification examinations  
<https://www.forensicnurses.org/page/CertOpportunities>:
    - a) SANE-Adolescent/Adult (SANE-A), or
    - b) SANE-Pediatric (SANE-P).

## 2. MILITARY TEAM MEMBERS

- a. **Sexual Assault Response Coordinator (SARC):** “The SARC shall serve as the single point of contact for coordinating appropriate and responsive care for sexual assault victims. SARCs shall coordinate sexual assault victim care and sexual assault response when a sexual assault is reported. The SARC shall supervise SAPR VAs, but may be called on to perform victim advocacy duties.” (U.S. Department of Defense [DoD], 2017, p. 3).
- b. **Sexual Assault Medical Forensic Examiner (SAMFE):** “All sexual assault medical forensic examiners have received specialized education and completed clinical requirements to perform the medical forensic sexual assault and sexual abuse examination. These clinicians manage the entire patient encounter—from the beginning of the medical forensic examination to discharge and referral planning.” (U.S. Department of Justice Office on Violence Against Women [DOJ OVAW], 2018, p. 1).
- c. **Sexual Assault Prevention and Response Victim Advocate (SAPR VA):** “The SAPR VA shall provide non-clinical crisis intervention and on-going support, in addition to referrals for adult sexual assault victims. Support will include providing information on available options and resources to victims” (DoD, 2017, p. 3).
- d. **Chaplain:** Provides “support to sexual assault patients (victim/suspect).” The chaplain “cannot take a report of sexual assault” (DoD, 2017, p. 114).

### MILITARY FORENSIC MEDICAL ASSESSMENTS

1. **Forensic medical assessment or examination:** “The sexual assault medical forensic exam is an assessment of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients. The assessment includes gathering information from the patient for the medical forensic history; an examination; coordinating treatment of injuries, documentation of biological and physical findings, and collection of evidence from the patient; documentation of findings; information, treatment, and referrals for STIs, pregnancy, suicidal ideation, alcohol and substance abuse, and other non-acute medical concerns; and follow-up as needed to provide additional healing, treatment, or collection of evidence” (DoJ, 2013, p. 17).

2. **Medical assessment or examination:** An assessment completed by medical personnel who are not SANEs or SAMFEs which does not include forensic evidence collection.
3. **Acute sexual assault:** Sexual assault that occurred—or in instance of child or vulnerable patient, the last contact with suspect occurred—within seven days prior to medical examination (U.S. Army Medical Department Center and School, 2017).
  - a. **All patients who were acutely sexually assaulted should be offered a forensic medical assessment.**
  - b. Some jurisdictions have longer time period recommendations for evidence collection. Military instillations collect evidence within seven days of the sexual assault. Non-military medical facilities follow state laws regarding evidence collection (Texas Code of Criminal Procedure §56.065).
  - c. Evidence is typically collected when sexual assault occurred within seven days, or with examiner discretion if beyond seven days (U.S. Army Medical Department Center and School, 2017).
  - d. All children, regardless of when last contact occurred, should be assessed by an expert (sexual assault nurse examiner, specially trained medical forensic professional or child abuse pediatrician) as soon as possible.
  - e. Children assaulted more than 120 hours ago and who are not in danger of being re-assaulted may have a scheduled examination at a later date. Check local jurisdiction for examination time frames.
4. **Non-acute sexual assault:** Sexual assault that occurred more than seven days ago. When a sexual assault occurred greater than 120 hours prior to sexual assault examination, prudent judgment should be used to determine if evidence collection is warranted. Injuries and possibly potential DNA evidence may be present that require documentation and treatment.

## MEDICAL AND FORENSIC ASSESSMENT TERMINOLOGY

1. **Drug-facilitated sexual assault (DFSA):** “All types of sexual assault when drugs, alcohol or other intoxicants are deliberately given to the victim by the perpetrator” (Faugno et al., 2012, p. 1). Suspected DFSA may require additional drug and/or alcohol testing. Samples may need to be sent to crime laboratory for further testing, which is not typically available in most health care facilities. Prudent judgment should be used to determine need to collect DFSA evidence. Consult local law enforcement or crime lab. (Texas Penal Code §22.021, 2003) <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.22.htm>
2. **Commercial sexual activity:** Any sex act for which anything of value is given to or received by any person (22 U.S.C., 2000 §7102(4)). (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter78&edition=prelim>).
3. **Sex trafficking:** “The recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act” is induced by force, fraud or coercion, or in which the person induced to perform such an act has not attained 18 years of age (22 U.S.C. § 7102; <http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter78&edition=prelim>; Texas Penal Code, 2017, 20A <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.20A.htm>).

## SEXUAL ASSAULT RESPONSE TEAMS (SART)

### NON-MILITARY PATIENTS

Sexual assault patients shall have a team of support in the community, including but not limited to:

- Community-based advocates,
- Law enforcement officers,
- SANEs, physicians or nurses trained in sexual assault medical forensic evidence collection,
- Law enforcement victim service advocates, and
- District Attorney's Office personnel, legal victim advocates and attorneys.

Ideally, those present in the exam room, in addition to the patient, should be limited to a support person of the patient's choice (family, friend, etc.), community-based advocate from the local sexual assault program as defined by Section 420.003, Texas Government Code (<https://statutes.capitol.texas.gov/docs/GV/htm/GV.420.htm>), who has completed a sexual assault training program described by Section 420.011(b) (<https://statutes.capitol.texas.gov/docs/GV/htm/GV.420.htm>) and the sexual assault nurse examiner or the medical doctor or nurse trained in sexual assault forensic collection. However, the patient's support person may be asked to testify in legal proceedings and should not have any firsthand knowledge of the patient's assault.

To prevent role confusion, law enforcement officers and law enforcement victim advocates should not be present during the forensic medical assessment. The forensic medical assessment is for medical diagnosis and treatment purposes. The presence of law enforcement personnel may alter the purpose of that assessment. It may also inhibit the patients' comfort to communicate private health-impacting information, which may alter the outcome of the patient assessment.

## **MILITARY PATIENTS**

Active duty military patients, and their dependents, who report sexual assault also have a team of support in the community, including but not limited to:

- Sexual assault response coordinator, victim advocates and chaplains,
- Sexual assault behavioral health care providers,
- Sexual assault care coordinator,
- Army Criminal Investigation Department (CID), Air Force Office of Special Investigations (OSI), Naval Criminal Investigative Services (NCIS), police or sheriff department,
- SAMFEs, physicians, advanced practice registered nurses or physician assistants who are trained in sexual assault medical forensic evidence collection,
- Law enforcement victim service advocates, and
- Special victims' prosecutor, district attorney office personnel, legal victim advocates and attorneys.



## LEGAL REFERENCES

This section covers important legal definitions in federal and state laws. **See specific federal and state statutes for most current statutes:**

- Federal Statutes via Library of Congress: <https://www.loc.gov/law/help/statutes.php>
- Texas Constitution and Statutes: <http://www.statutes.legis.state.tx.us/>

### UNITED STATES CODE

#### 1. Federal Statutes and Decisions

- a. Federal rape and sexual assault Uniform Code of Military Justice, 10 (United States Code [U.S.C.] §920.120 and §920.120b, 2017 defines “sexual assault and rape.”) Retrieved from [http://uscode.house.gov/view.xhtml?req=\(title:%20section:920%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title-section920\)&f=treesort&edition=prelim&num=0&jumpTo=true#sourcecredit](http://uscode.house.gov/view.xhtml?req=(title:%20section:920%20edition:prelim)%20OR%20(granuleid:USC-prelim-title-section920)&f=treesort&edition=prelim&num=0&jumpTo=true#sourcecredit)
- b. Emergency Medical Treatment and Labor Act (EMTALA) was enacted by Congress in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (42 U.S.C. §1395dd) and requires anyone presenting to an emergency department be medically stabilized and treated regardless of their insurance status or ability to pay. Retrieved from <http://uscode.house.gov/view.xhtml?req=42+1395dd&f=treesort&fq=true&num=18&hl=true&edition=prelim&granuleId=USC-prelim-title42-section1395dd/>
- c. *Crawford v. Washington* (02-9410) 541 U.S. 36 (2004). The Sixth Amendment’s Confrontation Clause provides that, “[i]n all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witnesses against him” (*Crawford v. Washington*, March 8, 2004). Link: <https://www.supremecourt.gov/opinions/03pdf/02-9410.pdf>  
\**Crawford v. Washington* has been interpreted to hold that health care providers may testify to medical records, including statements the patient made during the course of the examination, regardless of whether or not the patient testifies at trial. The judge makes the final determination of what testimony is allowed.
- d. 20 U.S.C.A. §1681 amended Title IX provides information about rights of students in an educational institution that receives federal funding (Pre-K through university, including

private institutions) (20 U.S.C.A. §1681, 2002). Link:

<http://uscode.house.gov/view.xhtml?req=20+1681&f=treesort&fq=true&num=63&hl=true&edition=prelim&granuleId=USC-prelim-title20-section1681>

## TEXAS STATUTES

### a. Texas Statutes and Decisions

#### i. Texas Family Code

1. **Child or minor:** Texas Family Code §101.003 defines child or minor as a “**person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.**” Link: <http://www.statutes.legis.state.tx.us/SOTWDocs/FA/htm/FA.101.htm>
2. **Elderly individual:** “Person 65 years of age or older” (Texas Penal Code §22.04, 1999). Link: <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.22.htm>
3. **Consent to treatment of a child:** Link: <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.32.htm>
  - a. **Child consent:** A child can “consent to the diagnosis and treatment of an infectious, contagious or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, including all diseases within the scope of Section 81.041, Health and Safety Code” (Texas Family Code §32.003).
  - b. **Consent by non-parent:** “The following persons may consent to medical, dental, psychological, and surgical treatment of a child when the person having the right to consent as otherwise provided by law cannot be contacted and that person has not given actual notice to the contrary: (6) a court; (7) an adult responsible for child under the jurisdiction of a juvenile court; or (8) a peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical

treatment” (Texas Family Code §32.001). Retrieved from <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.32.htm>

- c. **Examination without consent of abuse or neglect of child:** “A physician, dentist, or psychologist may examine the child **without the consent of the child, the child’s parents, or other person authorized to consent:** (b) An examination under this section may include X-rays, blood tests, photographs, and penetration of tissue necessary to accomplish those tests” (Texas Family Code §32.005). Retrieved from <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.32.htm>

4. **Mandatory reporting of abuse: The reporting of suspected abuse cannot be delegated** (Texas Family Code §261.101). Retrieved from <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm>

5. **Report abuse to appropriate agency.** Mandatory reporting of suspected abuse (Texas Family Code §261.103). Retrieved from <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm>

## ii. Penal Code

1. **Child or minor:** Texas Penal Code §21.02 & §22.011 define child as “**younger than 17 years of age (Texas Penal Code §21.02; Texas Penal Code §22.001).**” Retrieved from <http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.21.htm>
2. Texas Penal Code §43.25 defines child as “**younger than 18 years of age**” for the offense of Sexual Performance by a Child (Texas Penal Code §43.25). Retrieved from <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.43.htm>

## RECOMMENDED EQUIPMENT AND SPACE

It is recommended that the forensic medical sexual assault assessment occur in a quiet, safe and private room where entire patient assessment will not be interrupted by outside environment.

Recommended equipment and space:

- Digital camera or image capture system:
  - Facilities must have policies in place to guide collection and appropriate secure storage of digital images, as well as policies for release or destroying of said images.
  - **Do not use personal photography equipment or telephones for taking patient photographs.** Chain of custody and confidentiality of photographs cannot be maintained while using personal photography equipment.
- Colposcope or other magnification system, especially for the examination of children.
- Medical professionals should have prior training on correct use of all equipment before use.
- Attorney General of Texas approved SAEK, which may include forensic medical documentation forms.
- Drug facilitated sexual assault (DFSA) or toxicology collection kit. DFSA urine is recommended to be frozen, or at least refrigerated, and documentation of chain of custody must be maintained (National Institute of Justice [NIJ], 2017).
- Other evidence collection and preservation items:
  - Paper bags,
  - Evidence tape, and
  - Marking pens.
- Personal protective equipment including numerous changes of gloves.
- Designated drying area for evidence. If facility does not have an area for drying, consider notifying law enforcement agency who has jurisdiction to collect evidence immediately.
- Evidence will be sealed as soon as possible upon completion of examination.
- Facilities must have locked and secured, temporary storage space for evidence that cannot be released immediately to law enforcement. Evidence must be tracked. By Texas Government Code §420.034 (link: <https://statutes.capitol.texas.gov/docs/GV/htm/GV.420.htm>), beginning September 1,

2019, evidence must be electronically trackable from the time of evidence collection.  
Patients will be able to track the location and status of the evidence.

## PATIENT-CENTERED CARE

- **Sexual assault is a traumatic event.**
- **Health care providers can reduce the risk of further trauma by providing trauma-informed care that recognizes the patient has recently experienced neurobiological trauma.**
- **Patients have the right to have a sexual assault forensic medical assessment.** Pre-authorization by law enforcement is not required. (Texas Code of Criminal Procedure §56.06; §56.065) Link: <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.56.htm>
- **Patients have the right to decline any part of the assessment, even after they have signed informed consent and authorization forms.**
- Use trauma-informed practices when discussing gender at birth and self-identifying gender preference.
- There is no “normal” behavior following sexual assault. Exposure to trauma causes neurobiological changes that may impact behavior.
- Behaviors that may be observed include:
  - Flat or blunted affect,
  - Agitation, fidgeting or poor eye contact, especially while speaking of the assault,
  - Difficulty staying awake,
  - Difficulty remembering details about the traumatic event, especially chronology of events and peripheral details,
  - Focus on sensory details of the assault such as perpetrator features (e.g., tattoo, facial hair, mole, etc.), colors, smells or physical sensation,
  - Difficulty answering “why” questions,
  - Difficulty making decisions, and
  - Emotional lability.
- Trauma impacts cognitive function. To assist the patients:
  - Inform everyone about what will occur before it occurs,
  - Offer choices,
  - Allow patients time to respond to questions,
  - Take breaks if patients appear overwhelmed, and
  - Ask patients what they need in order to feel safe.

- There are essential questions about the traumatic event the health care professional must ask to properly treat injuries and prevent further adverse health outcomes:
  - Best practice is to start with less stress-provoking general health information and explain the rationale for questions asked.
  - Prior to obtaining the history of the incident(s), inform the patient that it is necessary to know what occurred in order to provide the best treatment options.
- Trauma can impact memory. Ask open-ended questions or clarifying questions and avoid “why” questions.
- Patients seen immediately following sexual assault who have not slept may have more difficulty with memory. They may need comfort measures, including medications.
- Neurobiological changes can lead to long-term conditions such as post-traumatic stress disorder (PTSD), chronic pain disorders, depression, anxiety, substance use disorder and suicidal thoughts that disrupt day-to-day functioning. Therefore, health care professionals should address patients’ mental and physical health needs.

## PRESENCE OF AN ADVOCATE

- “Advocate means a person who provides advocacy services as an employee or volunteer of a sexual assault program” (Texas Government Code §420.003, 2015). Link: <https://statutes.capitol.texas.gov/docs/GV/htm/GV.420.htm>
- Per Texas Code of Criminal Procedure §56.045, **health care professionals must offer access to a sexual assault advocate during the medical forensic examination** if that service is available. Link: <https://statutes.capitol.texas.gov/SOTWDocs/CR/htm/CR.56.htm>
- Regardless of age, it is the patient’s right and choice to have the advocate present during any or all parts of the forensic medical assessment process.
- The presence of an advocate is not only a right afforded to the patient by Texas Code of Criminal Procedures §56.045 but is an integral part of the forensic medical assessment process. **The advocate is distinct and separate from hospital and law enforcement personnel.**
- Advocates provide non-judgmental support to the patient and explain response options and other support resources available to the patient. Advocates might be the only consistent support throughout the entire healing and legal processes.
- It is vital to describe the role of the advocate, which is to provide counseling and support services and information regarding the rights of crime victims (Texas Code of Criminal Procedure §56.045).
- See pp. 10 & 12 for advocate roles.



## USE OF INTERPRETERS

- The availability of interpreters for patients who are non-English speakers, vision or hearing impaired is key to all aspects of the medical assessment and forensic evidence collection process and required by federal law under Title III of the Americans with Disabilities Act (ADA). Link:  
[https://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.htm](https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm)
- Verbal and written consent and information is required for all patients, including those with limited English proficiency.
- Verbal and written consent from patients who have limited English proficiency may require the use of foreign language interpreters—for verbal consent, for written consent to have the translators provide a sight translation of written documents, and for the translation of any forms into other languages.
- Most health care facilities have access to interpreters; however, the following resources may be of assistance to ensure patients fully understand every aspect of their health care and are able to appropriately provide an informed consent:
  - <https://www.languageline.com/interpreting>
  - <https://interpretersunlimited.com/texas-interpreter-translator/>
  - <http://lingualinx.com/telephone-interpreting-services/>
  - <http://interpret.voiance.com/language-services/>
  - <https://universallanguageservice.com/services/over-the-phone-interpretation/>

## **CULTURALLY SENSITIVE CARE**

- When performing a forensic medical sexual assault assessment and evidence collection, the health care professional shall provide empathic care that is patient-centered, culturally sensitive and compassionate and is accepting and respectful of cultural differences.
- Care will be guided by the patient's culture, customs, beliefs, religion and individual needs, recognizing that all patients are individuals and they may identify or belong to ethnic groups or have belief systems that are different from the health care provider's own and may not be readily apparent.
- Patients will be provided with a qualified, trained, medical interpreter in their desired language. Family members or advocates should never be used in this role.
- Any patient may decline any part or all of the forensic medical assessment for any reason; in addition, the exam may be adapted to meet the preferences of the patient as needed.

## OPTIONS FOR ADULT SEXUAL ASSAULT TREATMENT

### MILITARY AND ADULT MILITARY DEPENDENTS

- Department of Defense policy outlines services for military members who have been sexually assaulted. DoD Directive 6495.01 establishes the Sexual Assault Prevention and Response (SAPR) program.
- DoD Instruction 6495.02 details SAPR program implementation including comprehensive procedures in responding to the crime of sexual assault within the DoD.
- The DoD SAPR policy can be found at <http://www.sapr.mil/>
- Military members who are supported via the DoD SAPR program include individuals 18 years and older who are affiliated with the military (active duty, reserves, guard on Title 10 status, Army and Air Force federal civilian employees, and family members of a service member).
- Individuals 18 years and older who are affiliated with the military (active duty, reserves, guard, DoD civilians, or dependents) have reporting options similar to non-military patients.
- **The two reporting choices include “unrestricted” and “restricted” (confidential). Filing an official unrestricted or restricted report must be done through a Sexual Assault Response Coordinator.**
- **Unrestricted report:**
  - Includes reporting the incident to law enforcement and to the patient’s chain of command (supervisors or commanders),
  - The sexual assault will be investigated by the law enforcement agency with jurisdiction (may be either civilian or military law enforcement), and
  - Patient has access to all support services, including:
    - Health care treatment,
    - Assignment of a SARC and a Sexual Assault Prevention and Response Victim Advocate (SAPR VA).
    - The SARC shall be notified, respond or direct a SAPR VA to respond, offer the victim health care treatment and a Sexual Assault Forensic Exam (SAFE), and inform the victim of available resources.

- **Restricted report:**
  - DOES NOT trigger an investigation.
  - The command is notified that a sexual assault occurred but is not given the survivor's name or other personally identifying information.
  - Restricted reporting allows service members and military dependents who are adult sexual assault survivors to confidentially disclose the assault to specified individuals (SARC, SAPR VA, or health care personnel) and receive health care treatment, a Sexual Assault Forensic Exam and the assignment of a victim advocate.
  - **Restricted reporting is available only to service members and adult military dependents.**
  - **If a law enforcement officer or the survivor's chain of command becomes aware of a restricted report, an investigation is required.**
- It is critical that military-affiliated survivors receive information about their reporting options from a person knowledgeable of the DoD policy that defines reporting choices.
- Assistance for military members who need more information about their options can be accessed by the DoD Safe Helpline (877-995-5247), DoD SAPR website (<http://www.sapr.mil/>) or local military sexual assault hotline.
- Payment for forensic evidence collection in either official unrestricted or restricted reports should be billed to TRICARE (via TRICARE Policy Manual 6010.57-M, Chap 7, Section 26.1, February 1, 2008) or arranged with the military law enforcement agency handling the investigation.
- Individuals affiliated with the military may choose not to notify any military agency or make an official report through military channels. For these incidences, the individual has access to the same civilian reporting choices as defined in the following section.

## OPTIONS FOR ADULT SEXUAL ASSAULT TREATMENT (NON-MILITARY)

- Adult survivors of sexual assault have the option of reporting or not reporting the offense to law enforcement. In Texas, an adult is anyone who is 18 years old or older.
- **Reporting:**
  - Includes reporting the incident to law enforcement in the jurisdiction in which the sexual assault occurred, and
  - Patient has access to all support services, including:
    - Health care treatment,
    - Sexual assault forensic evidence collection,
    - Access to a sexual assault advocate, and
    - Ability to track sexual assault evidence through various stages of criminal justice process (Texas Government Code §420.034, 2017).
  - If the offense is reported to law enforcement, the law enforcement agency with jurisdiction is responsible for reimbursing the facility for the cost of the forensic component of the assessment for exams conducted before 9/1/2019. For exams conducted after 8/31/2019, the medical provider or facility may be eligible for reimbursement of the forensic component through Crime Victims' Compensation.
- **Non-reporting:**
  - DOES NOT include reporting the incident to law enforcement, and
  - The sexual assault evidence will **not** be processed unless the patient (up to five years after the incident, or as mandated) reports the crime to law enforcement (Texas Code of Criminal Procedure §56.065, 2019).
  - Patient has access to all support services, including:
    - Health care treatment,
    - Sexual assault forensic evidence collection,
    - Access to a sexual assault advocate, and
    - Ability to track sexual assault evidence through various stages of criminal justice process (Texas Government Code §420.034, 2017).
  - If the assault is not reported to law enforcement, responsibility for payment of the *medical component of the assessment and examination* may rest on the patients, and they are eligible for reimbursement through Crime Victims' Compensation. The cost of the forensic component, including evidence collection, is billed to Department of

- Public Service (DPS) for exams conducted before September 1, 2019. For exams conducted after 8/31/2019, the medical provider or facility may be eligible for reimbursement of the forensic component through Crime Victims' Compensation.
- In accordance with §56.065 of the Texas Code of Criminal Procedure, the Texas DPS Crime Laboratory Service will store sexual assault evidence in cases where there is no law enforcement notification.
  - **Instructions for submitting a non-report sexual assault evidence collection kit are available at <https://www.dps.texas.gov/crimelaboratory/nrsa.htm>**
    - Evidence will be packaged in a box that is completely sealed with heavy tape. The seal shall be initialed such that part of the initials is on the box and part on the tape. The box must be able to withstand standard shipping. Contents may include:
      - A patient (survivor) reference sample in the form of a dried buccal swab in its own packaging, and
      - Sealed paper bags containing survivor's clothing (should be limited to underwear unless there is a compelling reason to believe that any other item contains biological evidence from the suspect).
      - **No liquid blood or urine samples shall be included.**
    - **Do not include the patient's name on the external non-report SAEK. Use unique identifier.**
    - Provide patients with information on how to contact DPS if they decide to take further action. Be sure the unique identifier is clearly marked on all evidence packages, the laboratory submission form, any and all invoices, and the checklist of services provided. Facilities may provide the patient with the unique identifier, as their policies dictate.
    - In a sealed envelope that is secured to the outside of the outermost container, place the completed Laboratory Submission Form (LAB-NRSA-01) and the itemized checklist of the services provided (LAB-NRSA-02). Be sure to include the receipt for the actual shipping costs with your invoice.
  - Once evidence is collected and appropriately sealed, it is shipped overnight per DPS protocol. <https://txdpslabs.qualtraxcloud.com/ShowDocument.aspx?ID=45696>
  - Shipping address for evidence:

Texas DPS Bio-warehouse  
12230 West Rd., Building C  
Houston, TX 77065

- Mailing address for invoices:
  - Texas Department of Public Safety
  - Accounts Payable
  - P.O. Box 4087 MSC 130
  - Austin, TX 78773-0001
- Email for invoice questions: [apinvoices@dps.texas.gov](mailto:apinvoices@dps.texas.gov)
- Texas Family Code §261.101 requires that any person, including medical and social services organizations, who suspect child or dependent adult abuse must report it to either Texas Department of Family and Protective Services or to local or state law enforcement.

## ADULT/ADOLESCENT PROTOCOL

### INTRODUCTION

- **Adolescent:** “Adolescents” are defined in this protocol as children under 18 years of age, who have reached puberty. “While the physical developmental level of these patients” is similar to that of an adult and “must be taken into account when performing the exam, these patients should otherwise be treated as adolescents rather than children” (DoJ, 2013, p. 14).
- **Adult:** “Person who is not a child” (Texas Family Code §101.003), adult who is older than 18 years of age.
  - Link: <https://statutes.capitol.texas.gov/SOTWDocs/FA/htm/FA.101.htm>
- Adult patients (18–64 years of age) who do not have a disability may choose to be treated by basic forensically trained medical professionals (see page 10 for definition) or be treated in SAFE-ready facilities (Texas Health and Safety Code §323.0015).
  - Link: <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.323.htm>
- Adult patients who experience sexual assault have the right to receive a forensic medical assessment at the hospital with evidence collection where they present, if doing so within 120 hours of the assault.
- [Adolescent patients](#) should be seen by sexual assault nurse examiners, specially trained medical forensic professionals, or child abuse pediatricians.
- A facility is defined as SAFE-ready by Texas Health and Safety Code §323.001 “if the facility notifies the department (Department of State Health Services) that the facility employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of sexual assault forensic examiners to provide consultation to a licensed nurse or physician when conducting a sexual assault forensic medical examination.”
  - Link: <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.323.htm>
- Texas Department of State Health Services (2018) defines a SAFE-ready facility as one with certified SANEs “or a physician with specialized training to conduct a forensic medical examination of a sexual assault survivor” (Texas Department of State Health Services, 2018). Retrieved from <https://www.dshs.texas.gov/facilities/sexual-assault-information.aspx>
  - Link: <https://dshs.texas.gov/facilities/pdf/InfoForm-Non-SAFE-ReadyFacilities.pdf>



- Refer to the *National protocol for sexual assault medical forensic examinations: Adult/adolescents*, 2<sup>nd</sup> ed. (DoJ, 2013) Link: <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf> and
- Refer to the *National best practices for sexual assault kits: A multidisciplinary approach* (2017). Link: <https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>
- Refer to *The biological evidence preservation handbook: Best practices for evidence handlers* (2013). Link: <https://nvlpubs.nist.gov/nistpubs/ir/2013/NIST.IR.7928.pdf>

## **ADULT/ADOLESCENT FORENSIC MEDICAL ASSESSMENT**

### **Intake Medical Personnel**

**Triage:** Patients who report [acute sexual assault](#), or those who are suspected of being acutely sexually assaulted, should have an Emergency Severity Index (ESI) Triage Level 2 (U.S. Department of Health and Human Services, 2012). **The patient should be seen as soon as possible and triaged to assess for life- or limb-threatening injuries or psychiatric emergencies. Any life- or limb-threatening injuries or psychiatric emergencies take precedence over forensic evidence collection.** Once the patient is stable, offer a forensic medical assessment. The medical assessment may take place before or concurrently with forensic sexual assault assessment, depending on facility policy.

Escort the patient and family, caregiver or support person(s) to a private waiting area:

1. Elicit information as privately as possible, regarding:
  - a. Safety (Is the patient safe? Is the suspect present? Speaking with patient alone is important to obtain accurate information),
  - b. Pain, and
  - c. Bleeding.
2. Instruct patient to not use restroom, wash, change clothes, smoke, eat or drink until evaluated by the forensic health care professional. If patients must use restroom, collect the urine, and advise that they do not wipe genitalia until after evidence has been collected.
3. Consider collecting urine if drug/substance-facilitated sexual assault (DFSA) is suspected. Maintain chain of custody of specimens.

4. If patient wishes, contact sexual assault advocate for a hospital accompaniment. Advise patient of advocate's expected arrival time and roles to provide support and information for the patient.
5. Contact forensic health care professional and notify of patient's arrival. Advise patient of expected wait times.

### Medical Forensic Examiner

1. **Informed consent** (see page 49).
  - a. Introduce self to patient and describe plan of care, role of forensic medical health care professional and expected length of time to complete patient assessment. Invite patient to ask questions.
  - b. Patients can consent or decline any portion or all of the forensic medical assessment. If patients decline, they can return at another time for forensic medical assessment. If they return within 120 hours since the incident, a SAEK may be collected. Inform patient that this may result in additional medical costs.
2. Determine if patient (18 years old and older) wishes to report to law enforcement (see page 29).
3. **Medical assessment.** May take place before or concurrently with forensic sexual assault assessment, depending on facility policy (see page 32).
  - a. **Obtain a verbatim history of the incident(s).** Additionally, document:
    1. All those present during the patient's history and assessment.
    2. Time, date and location of assault(s).
    3. Contact and/or penetrative acts by suspect(s).
    4. Was the suspect injured in any way, if known?
    5. Use of lubricant, including saliva.
    6. Patient's actions between the sexual assault and arrival at the facility (i.e. brushing teeth, using mouthwash, changing clothes, vomiting, smoking, vaping, swimming, douching, showering or bathing).
    7. Was patient or suspect menstruating at time of the assault(s) or at the time of the examination? Was the patient wearing a menstrual cup during the sexual assault or at the time of the sexual assault forensic medical assessment?

8. Was a tampon present during the incident or at the time of forensic medical assessment?
9. Was a condom used?
10. Was there patient or suspect ejaculation? Where?
11. Any weapon use or physical force, or threat of weapon use or physical force?

**b. Evidence collection and packaging:**

1. Ensure written consent or authorization is obtained prior to assessment and evidence collection. Additionally, ensure ongoing patient assent is obtained.
2. Wear powder-free gloves when collecting and packing evidence. **Change gloves often and between each swab collection.** Open sealed SAEK. Consider wearing gloves when handling any kit contents. Inspect for integrity prior to using SAEK.
3. Refrain from coughing or sneezing over evidence.
4. Seal items of clothing separately in paper bags. Only the patient's underwear go in the SAEK.
5. Use a prepackaged drug/substance-facilitated sexual assault ([DFSA](#)) specimen kit to collect urine specimens, if indicated (i.e. gaps in memory, loss of consciousness, nausea, vomiting, dizziness that are unexplained by other causes).
  - a) Place blood and/or urine DFSA specimens in biohazard bag that is sealed and labeled. Place urine DFSA specimen inside a cardboard box which is also sealed and labeled. Urine should never be placed in the SAEK. Maintain chain of custody of the DFSA specimens.
  - b) If facility does not have prepackaged DFSA kits, examiner may collect one grey-top tube of blood and a dirty urine specimen (do not have patient wipe before specimen collection). Maintain chain of custody of specimens. Follow facility policies.
6. All wet evidence (excluding swabs) should be air-dried prior to packaging whenever possible. Swabs can be placed directly in swab boxes and do not require additional air drying. If air drying is not possible, wet evidence

should be refrigerated as soon as possible. Consider contacting law enforcement who has jurisdiction to take specimens for drying.

7. Seal envelopes containing evidence with self-adhesive labels and/or tape.

Never use examiner saliva to seal envelopes.

8. Seal and label all evidence collected with date and time of collection and the examiner's initials.

**c. Chain of custody:**

1. Collect evidence so that it will be admissible as evidence in legal proceedings at a later date. Therefore, chain of custody must be maintained and documented throughout the entire patient assessment and evidence collection processes. Chain of custody documents the dates and times of each individual who handles every piece of evidence, from the time it is collected through to legal proceedings.

2. Evidence should be labeled with patient's name, date of birth, unique identifier number, examiner's initials, date and time. **If adult patient chooses non-reporting method, the external SAEK is labeled only with the unique identifier number (often the medical record number).**

Evidence inside the SAEK is labeled according to standard facility procedure. Follow facility protocols on non-reporting evidence collection.

3. Chain-of-custody documentation must include:

a) Receipt,

b) Storage,

c) Transfer of evidence,

d) Date and time of each transfer, and

e) Printed name and signature of each person in possession of and transferring or receiving custody.

**d. Swab and evidence collection:** Concentrating evidence on two swabs from each site is best practice (NIJ, 2017, p. 18;

<https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>). Explain process and reason for collection to patient before each site collection. Take photographs per facility protocol during assessment and evidence collection processes.

1. Moisten swabs with sterile water, if necessary, directly prior to evidence collection. Swabs can be placed directly in the swab box without the need to air dry swab samples.
2. Maintain strict practices to prevent cross-contamination of evidence (change gloves between each site collection, do not speak or cough over the swabs).
3. Seal swabs from left and right body parts in the same envelope but in different boxes (for example, swabs from left and right breasts should be placed in different boxes, but both boxes can be sealed inside one envelope).
4. Some examiners wear gloves and masks during evidence collection. This Texas Evidence Collection Advisory Board (TXECAB) is unaware of any empirical evidence that wearing a mask prevents evidence contamination. The examiner wearing a mask may cause undue stress to patients who recently experienced sexual assault. Use of prudent judgment is imperative.
5. Oral swabs: Purpose is to recover foreign DNA. Foreign DNA degrades quickly in the mouth. If known or suspected oral assault, collect oral swabs as soon as possible, and before patient eats or drinks. When patient describes oral penetration or contact, it is suspected, or patient is unconscious, collect oral swabs.  
  
Recommended process: Put on new gloves. Using two swabs, swab inside the patient's mouth around the gum lines. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the oral swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
6. Patient's known DNA buccal swabs / Whatman Flinders Technology (FTA) card: Purpose is to determine patient's DNA for comparison to other samples. **If oral assault occurred, collect oral swabs for foreign DNA first (see "[Oral swabs](#)" step above)**. Wait 15–20 minutes. Patient may also swish mouth with water then wait 15–20 minutes. Patient's

known DNA buccal swabs or an FTA card should be obtained from every patient, including children.

Recommended process: Put on new gloves. Using two swabs, swab the inner cheeks of the patient's mouth. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the patient's known DNA envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

Some facilities use FTA blood cards in lieu of patient's known DNA buccal swabs. FTA cards are filter papers laced with chemicals that stabilize nucleic acids for long-term storage. Follow facility protocol for use of FTA cards. These specimens do not require refrigeration.

Patient's known blood sample: It is the opinion of TXECAB that patient's known liquid blood samples (i.e. those in a blood tube) should not be collected as evidence. SAEKs with blood samples must be refrigerated. Most facilities and crime labs do not have the refrigerated storage space necessary to correctly store these samples.

7. Patient's clipped or pulled head hair standards: It is the opinion of TXECAB that pulled hair standards should not be collected. It can cause undue trauma and stress for the patient and has limited forensic value. Recommended process: Matted head hair may be clipped or swabbed with lightly moistened swabs. If reference samples are collected, they should be collected only by cutting (DoJ, 2017, p. 20). Use trauma-informed patient care and prudent judgement.

8. Patient's head hair combings and comb: Purpose is to collect trace evidence, including foreign hairs in cases of unknown or acquaintance sexual assault. Combing of head hair may be beneficial; components for combing should be standard in all kits (DoJ, 2017, p. 20).

Recommended process: Put on new gloves. Open a small paper included in the SAEK over the patient's lap. Using a comb provided in the SAEK, comb the patient's hair over the paper. Allow patients to comb their own hair if they choose. Bindle the comb into the paper and place in the envelope. Bindling is the process of folding paper into thirds lengthwise

then into thirds widthwise, and finally pocketing edges to prevent content slippage. Label and seal with examiner's initials. Place envelope in the SAEK. If patient has hair extensions and consents to collection, collect samples of hair extensions as evidence and notate the presence of hair extensions. If patient is aware, also notate if extensions are synthetic or human hair.

9. Clothing: Purpose is to recover possible foreign matter or DNA, and to note any damage to clothing. Foreign matter or DNA may be deposited on the patient's clothing during a sexual assault. Damaged or stained clothing may be evidence. Consider photographing damaged or stained clothing. Follow facility policies.

- a) Underwear: Regardless if the patient changed underwear (panties or other undergarments close to patients' genitalia; does not include bras) after the sexual assault, the examiner should always collect underwear if the patient consents. Body fluids may be transferred to the underwear. If the patient is not wearing underwear at the time of the assessment, collect clothing that was in direct contact with the patient's anogenital area or thighs. Underwear is to be placed in the SAEK, if there is space.
- b) Outer clothing: Clothing worn during the sexual assault or immediately afterward may have foreign DNA and should be collected. Typical clothing collected includes: bra, pants and shirts. Coats, socks and shoes may not need to be collected. Collection is based on the patient's description of the sexual assault and the examiner's prudent judgment. Clothing does not go in the SAEK (except underwear).

Clothing collection process:

- a) Put on new gloves. Place a clean sheet on the floor. Take the large changing paper out of the SAEK and spread it out on top of the clean sheet. Have the patient stand in the middle of the changing paper. Provide the patient some privacy when removing clothing

(i.e. hold up a gown). Have the patient place individual items in separate areas on the changing paper.

- b) Label the changing paper. Inspect each piece of clothing. Document item, color and any damage on the forensic record. Label each item of clothing with patient's name, date seen and examiner's initials. Consider photographing damaged or stained clothing.
- c) Place each item of clothing in a separate paper bag. Clothing does not go in the SAEK. Dry wet clothing, if possible. If unable to dry wet clothing, arrange for release to law enforcement with chain of custody. Notify law enforcement that the clothing is wet, so drying arrangements can be made. Bag each item individually to prevent cross-contamination. Seal and label each bag with date, time and examiner's initials. Seal all clothing bags inside a large bag. Seal and label large bag with date, time and examiner's initials.
- d) Label each large bag with a number also. For example, if there is a SAEK plus one bag of clothing, label SAEK "1 of 2" and bag "2 of 2". This helps ensure all evidence stays together during evidence transfers.

10. Dried secretions/debris: Purpose is to collect any dried secretions or debris found on the patient.

Recommended process: Put on new gloves. Inspect patient from head to toe. Using dried secretions/debris envelope, collect any suspected foreign material. Note on envelope description of the material.

- a) Debris: Bindle debris into a paper provided in the SAEK and place in the envelope. Label with site of collection and possible sample information and seal with examiner's initials. Place envelope in the SAEK.
- b) Dried secretions: Flake dried secretions onto a paper bindle included in the SAEK. Moisten swabs with sterile water. Swab site with two moistened swabs. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the



dried secretions/debris envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

- c) Touch DNA: Purpose is to collect any foreign DNA on patient, based on description of assault, patient actions between the assault and the exam and/or assessment findings (i.e. if patient describes being strangled, there may be foreign DNA on the patient's neck). Recommended process: Wear gloves while completing head-to-toe patient assessment. Swab any sites patients state there may be foreign DNA. If patient lives with the assailant, touch DNA may have limited forensic value. "Use two lightly moistened swabs, from each affected area" (NIJ, 2017, p. 21). Using patient's own words, document site and source on SAEK envelope, swab box and forensic medical record. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in one of the dried secretions/debris envelopes. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

11. Fingernail swabs: Purpose is to collect foreign DNA in the event the patient describes scratching the suspect.

Recommended process: Put on new gloves. Moisten the two small swabs and swab under the patient's fingernails, one set of two swabs for left hand nails and one set of two swabs for right hand nails. Scraping with wooden stick is not recommended as it can cause injuries. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the fingernail swabs envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

12. Patient's clipped or pulled pubic hair: It is the opinion of TXECAB that pulled hair standards should not be collected. It can cause undue trauma and stress for the patient and has limited forensic value.

Recommended process: Matted pubic hair may be clipped or swabbed with lightly moistened swabs. If reference samples are collected, they should be collected only by cutting (DoJ, 2017, p. 20). Use trauma-informed patient care and prudent judgement.

13. Pubic hair combings and comb: Purpose is to collect trace evidence, including foreign hairs, in cases of unknown or acquaintance sexual assault. Combing of pubic hair may be beneficial; components for combing should be standard in all kits (DoJ, 2017, p. 20).

Recommended process: Put on new gloves. Open a small paper included in the SAEK under the patient's buttocks. Using a comb provided in the SAEK, comb the patient's pubic hair over the paper. Bindle the comb into the paper and place in the envelope. Bindling is the process of folding paper into thirds lengthwise then into thirds widthwise, and finally pocketing edges to prevent content slippage. Label and seal with examiner's initials. Place envelope in the SAEK.

14. Vulva swabs: Purpose is to recover foreign DNA.

Recommended process: Put on new gloves. Swab the vulva with two swabs total (simultaneously). Swab the inner labia majora, labia minora and hymen. Avoid the urinary meatus. It may be necessary to pre-moisten the cotton-tipped applicators with sterile water. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

15. Vaginal/cervical swabs: Purpose is to recover foreign DNA. Vagina and cervical swabs should be collected only on adolescents or adults. The use of vaginal washings is not recommended as it dilutes the sample.

Recommended process: Change gloves. Insert vaginal speculum. Gently place two swabs slightly in the cervical os, hold for 5–10 seconds, swab the surface of the cervix, then swab the posterior fornix (bottom of cervix and the space below the cervix) of the vagina (Speck & Ballantyne, 2015). Remove speculum. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vaginal/cervical/penile swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

16. Penile swabs: Purpose is to recover foreign DNA. Consider allowing patient to swab his own penis.

Recommended process: Change gloves. Pre-moisten two swabs and swab the head of the penis, staying away from the urethral meatus. Use same two swabs to swab under the foreskin and the shaft of the penis. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vaginal/cervical/penile swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

17. Scrotal swabs: Purpose is to recover foreign DNA. Consider allowing patient to swab his own scrotum, if he chooses.

Recommended process: Change gloves. Pre-moisten two swabs. Use two swabs to swab the scrotum. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

18. Anal swabs: Purpose is to recover foreign DNA.

Recommended process: Change gloves. Pre-moisten two cotton-tipped applicators. Use two swabs to swab around the external anus. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the anal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

19. Any retained objects in vagina or rectum: Purpose of collection is to recover foreign DNA or evidence.

Recommended process: Collect tampon, menstrual cup or retained object. Air dry, if possible. Once dry, place in dried secretions/debris envelope. Label and seal envelope with examiner's initials. Place envelope in the SAEK.

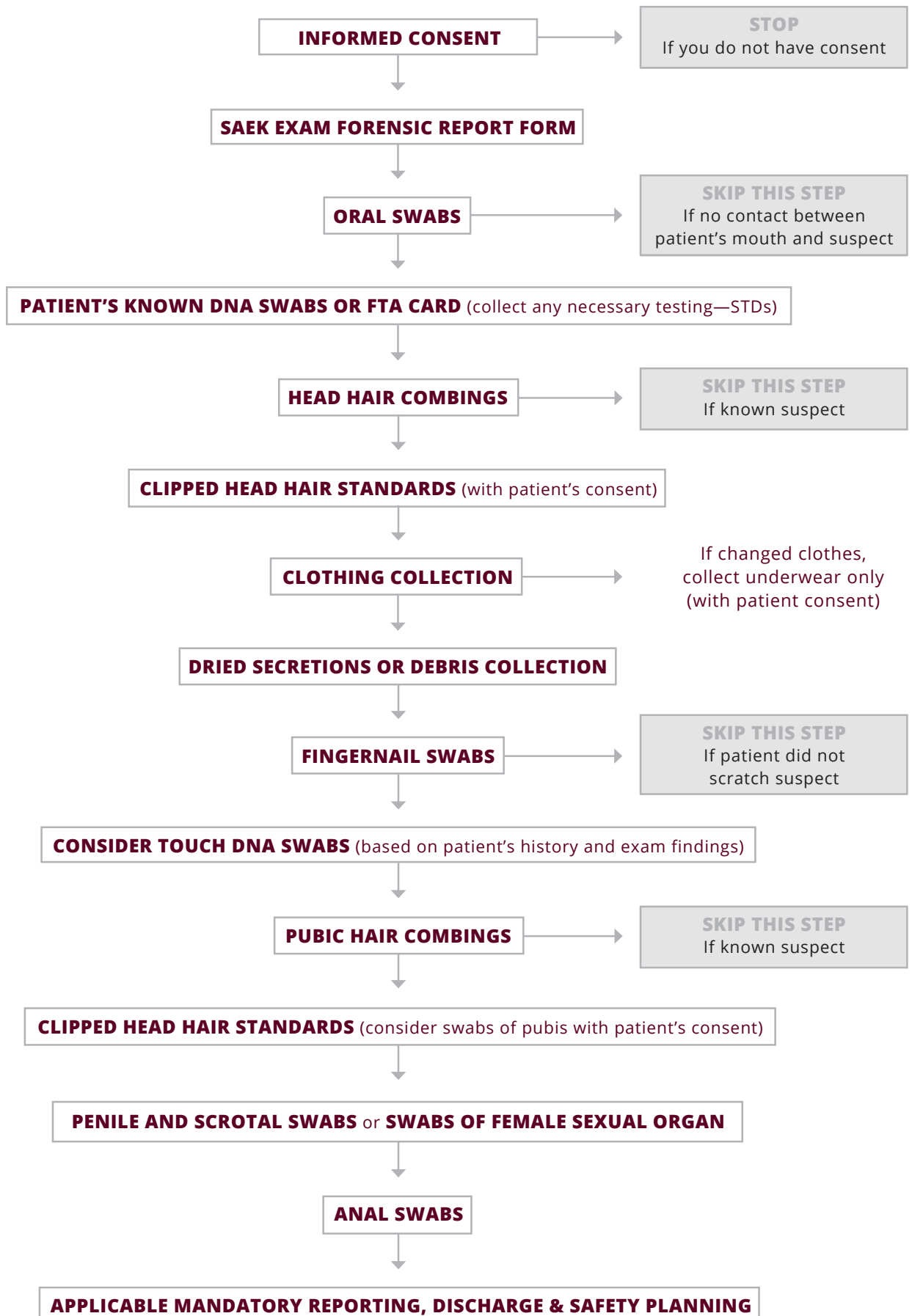
- e. **Documentation:** Use facility-approved forensic medical assessment documentation forms. Use terms such as "reported" or "stated" rather than "alleged" when documenting patient's history. Document use of interpreter, if applicable. Follow facility protocol for electronic or written documentation. Print or write legibly.

1. Document patient's:

- a) Pertinent medical and surgical history,

- b) Last menstrual period,
  - c) Gravida and para, and
  - d) Medications.
- f. Complete forensic medical assessment documentation. Place one copy of forensic documentation in SAEK. Ensure there is a copy of the documentation for law enforcement. Original copy stays at the facility.
  - g. Sealing SAEK: Change gloves. Remove red evidence labels and small bright orange biohazard label from SAEK. Once all evidence is appropriately labeled and sealed, seal SAEK with red evidence tape provided in the kit. Add biohazard label to front of SAEK. Complete documentation on the front of the SAEK.
  - h. Sign, date and time over the evidence tape so signature goes from kit across label back to kit. This allows examiner to verify that tampering did not occur while testifying in legal proceedings.
  - i. Complete appropriate chain-of-custody documentation when transferring evidence.

# ADULT/ADOLESCENT ASSESSMENT FLOWSHEET



## PREPUBERTAL PEDIATRIC PROTOCOL

### INTRODUCTION

- **Prepubertal (pediatric) child:** “The pediatric population addressed in this protocol are solely prepubescent children” under 18 years of age who have not reached puberty. “A child’s stage of pubertal development is determined by assessing secondary sexual characteristics rather than chronological age. Although the onset and timeline of the pubertal process is unique to each child, the stages are identifiable and predictable” (DoJ, 2016, p. 9).
  - Link: <https://www.justice.gov/ovw/file/846856/download>
- Child patients, under 18 years of age, should be seen by specially trained medical forensic professionals.
- If there is not a specially trained medical forensic professional available, a forensic medical history, assessment and acute evidence collection should be completed. Patient is then referred to a pediatric forensic expert for additional assessment. Assessment findings and documentation should be reviewed and discussed with a pediatric forensic expert, if possible.
- All prepubertal children should have an assessment regardless of:
  - When the assault occurred (or was thought to have occurred), and
  - What the child stated occurred. Sometimes children may give caregivers only a small portion of what actually occurred (McElvaney, 2015). Highly trained SANEs, specially trained medical forensic professionals and child abuse pediatricians have the expertise and training to establish trust with pediatric patients and ask questions most appropriate to obtaining a history.
- Complete forensic medical assessment examinations can elicit:
  - Additional medical findings,
  - Patient’s history of new or additional information,
  - Information regarding sexually transmitted diseases, or
  - The presence of other victims.
- *A National protocol for sexual abuse medical forensic examinations: Pediatric* can be found at this link (DoJ, 2016). Link: <https://www.justice.gov/ovw/file/846856/download>

- *National best practices for sexual assault kits, a multidisciplinary approach*, can be found at this link (DoJ, 2017). Link: <https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>
- Refer to *The biological evidence preservation handbook: Best practices for evidence handlers* (2013). Link: <https://nvlpubs.nist.gov/nistpubs/ir/2013/NIST.IR.7928.pdf>

## PREPUBERTAL FORENSIC MEDICAL ASSESSMENT AND EXAMINATION

### **Intake Medical Personnel**

**Triage:** Patients who report [acute sexual assault](#), or those who are suspected of being acutely sexually assaulted, should have an Emergency Severity Index Triage Level 2 (U.S. Department of Health and Human Services, 2012). **This patient should be seen as soon as possible and triaged to assess for life- or limb-threatening injuries or psychiatric emergencies. Any life- or limb-threatening injuries or psychiatric emergencies take precedence over forensic medical evidence collection.** Once the patient is stable, proceed with the forensic medical assessment, if appropriate. The medical assessment may take place before or concurrently with forensic sexual assault assessment, depending on facility policy.

Escort this patient and their family, caregiver or support persons to a private waiting area.

1. Elicit information as privately as possible, regarding:
  - a. Safety (Is patient safe? Is the suspected perpetrator present? Speaking with patient alone is important to obtain accurate information),
  - b. Pain, and
  - c. Bleeding.
2. If the assault occurred within the last 12 hours and the child has not had anything to eat or drink, instruct patient to not use restroom, wash, change clothes, eat or drink until evaluated by the forensic health care professional. Prudent judgment must be used. If patient must use restroom, collect urine and advise that patient does not wipe genitalia until after evidence has been collected, if possible.
3. Consider collecting urine if drug-facilitated sexual assault is suspected. Maintain chain of custody of specimen.
4. Contact rape crisis center for an advocate hospital accompaniment. Advise patient and caregivers (when applicable) of advocate's expected arrival time and role as support for the patient and family.
5. Contact forensic health care professional and notify of patient's arrival. Advise patient and caregivers (when applicable) of expected wait times.



## Medical Forensic Examiner

### 1. **Informed consent**

- a. Introduce self to patient, describe plan of care, role of forensic health care professional and expected length of examination. Invite patient to ask questions.
  - b. All patients, regardless of age, can assent or decline any portion or all of the forensic medical assessment. Examiners should attempt to discern why patient is not assenting and alter their processes to obtain assent. If the patient continues to decline, the patient can return at another time for forensic medical assessment. If patient returns within 120 hours since the assault, a SAEK may be collected. Inform patient and caregiver that this may result in additional medical costs.
2. Sexual assault of children less than 18 years old must be reported to law enforcement and/or child protective services (see page 4).
3. **Medical assessment.** May take place before or concurrently with forensic sexual assault assessment, depending on facility policy (see page 32).
- a. **Obtain a verbatim history of the sexual assault(s).** History is obtained based on child's age and developmental abilities. Use the child patient's verbiage and use quotations if possible. Not all children will be able to answer all questions asked. Examiner should document the following items:
    - i. All those present during the patient's history and examination.
    - ii. Time, date and location of assault(s).
    - iii. Contact and/or penetrative acts by suspect(s).
    - iv. Was the suspect injured in any way, if known?
    - v. Use of lubricant, including saliva.
    - vi. Patient's actions between the sexual assault and arrival at the facility (brushing teeth, using mouthwash, changing clothes, vomiting, swimming, showering or bathing).
    - vii. Was a condom used?
    - viii. Did ejaculation occur? Where?
    - ix. Any weapon use or physical force, or threat of weapon use or physical force?

- x. Description of condition of clothing (and was clothing torn or stained prior to assault?).

**b. Evidence collection and packaging:**

- i. Ensure written consent is obtained prior to forensic medical assessment and evidence collection. Additionally, ensure ongoing assent is obtained.
- ii. Wear powder-free gloves when collecting and packing evidence. **Change gloves often and between each swab collection.** Open sealed SAEK. Consider wearing gloves when handling any kit contents. Inspect for integrity prior to using SAEK.
- iii. Refrain from coughing or sneezing over evidence.
- iv. Seal items of clothing separately in paper bags. Only the underwear go in the SAEK.
- v. Use a prepackaged [DFSA](#) specimen kit to collect urine specimens, if indicated (i.e. gaps in memory, loss of consciousness, nausea, vomiting, dizziness unexplained by other causes).
  - a) Place blood and/or urine DFSA specimens in biohazard bag that is then sealed and labeled. Place urine DFSA specimen inside a cardboard box which is also sealed and labeled. Urine should never be placed in the SAEK. Maintain chain of custody of the DFSA specimens.
  - b) If facility does not have prepackaged DFSA kits, examiner can collect one grey-top tube of blood and a dirty urine specimen (do not have patient wipe before specimen collection). Maintain chain of custody of specimens.
- vi. All wet evidence (excluding swabs) should be air-dried prior to packaging whenever possible. Swabs can be placed directly in swab boxes and do not require additional air drying. If air drying is not possible, wet evidence should be refrigerated as soon as possible. Consider contacting law enforcement who has jurisdiction to take specimens for drying.
- vii. Seal envelopes containing evidence with self-adhesive labels and/or tape. Never use examiner saliva to seal envelopes.

- viii. Seal and label all evidence collected with date and time of collection and the examiner's initials.

**c. Chain of custody:**

- i. Collect evidence so that it will be admissible as evidence in legal proceedings at a later date. Therefore, chain of custody must be maintained and documented throughout the entire patient assessment and evidence collection processes. Chain of custody documents the dates and times of each individual who handles each piece of evidence, from the time it is collected through to legal proceedings.
- ii. Evidence should be labeled with patient's name, date of birth, and unique identifier number, examiner's initials, date and time.
- iii. Chain-of-custody documentation must include:
  - a) Receipt,
  - b) Storage,
  - c) Transfer of evidence,
  - d) Date and time of each transfer, and
  - e) Printed name and signature of each person in possession of or transferring/receiving custody.

- d. Swab and evidence collection:** Concentrating evidence on two swabs from each site is best practice (NIJ, 2017) <https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>. Explain process to patient and guardians, and reason for collection before each site collection. Take photographs per facility protocol during assessment and evidence collection processes.

- i. Moisten swabs with sterile water, if necessary, directly prior to evidence collection. Swabs can be placed directly in the swab box without the need to air dry swab samples.
- ii. Maintain strict practices to prevent cross-contamination of evidence (change gloves between each sample collection, do not speak or cough while handling swabs).
- iii. Seal swabs from left and right body parts in the same envelope but in different boxes (for example, swabs from left and right breasts should be

placed in different boxes, but both boxes can be sealed inside one envelope).

- iv. Some examiners wear gloves and masks during evidence collection. This TXECAB is unaware of any empirical evidence that wearing a mask prevents evidence contamination. The examiner wearing a mask may cause undue stress to patients who recently experienced sexual assault. Use of prudent judgment is imperative.

- v. Oral swabs: Purpose is to recover foreign DNA. Foreign DNA degrades quickly in the mouth. If known or suspected oral assault, collect oral swabs as soon as possible, and before patient eats or drinks. When patient describes oral penetration or contact, it is suspected, or patient is unconscious, collect oral swabs.

Recommended process: Put on new gloves. Using two swabs, swab inside the patient's mouth around the gum lines. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the oral swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

- vi. Patient's known DNA buccal swabs / Whatman Flinders Technology (FTA) card: Purpose is to determine patient's DNA for comparison to other samples. **If oral assault occurred, collect oral swabs for foreign DNA first (see "Oral swabs" step above).** Wait 15–20 minutes. Patient may also swish mouth with water then wait 15–20 minutes. Patient's known DNA buccal swabs or an FTA card should be obtained from every patient, including children.

Recommended process: Put on new gloves. Using two swabs, swab the inner cheeks of the patient's mouth. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the patient's known DNA envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

Some facilities use FTA blood cards in lieu of patient's known DNA buccal swabs. FTA cards are filter papers laced with chemicals that

stabilize nucleic acids for long-term storage. Follow facility protocol for use of FTA cards. These specimens do not require refrigeration.

Patient's known blood sample: It is the opinion of TXECAB that patient's known liquid blood samples (i.e. those in a blood tube) should not be collected as evidence. SAEKs with blood samples must be refrigerated. Most facilities and crime labs do not have the refrigerated storage space necessary to correctly store these samples.

- vii. Patient's clipped or pulled head hair standards: It is the opinion of TXECAB that pulled hair standards should not be collected. It can cause undue trauma and stress for the patient and has limited forensic value.

Recommended process: Matted head hair may be clipped or swabbed with lightly moistened swabs. If reference samples are collected, they should be collected only by cutting (DoJ, 2017, p. 20). Use trauma-informed patient care and prudent judgement.

- viii. Patient's head hair combings and comb: Purpose is to collect trace evidence, including foreign hairs in cases of unknown or acquaintance sexual assault. Combing of head hair may be beneficial; components for combing should be standard in all kits (DoJ, 2017, p. 20).

Recommended process: Put on new gloves. Open a small paper included in the SAEK over the patient's lap. Using a comb provided in the SAEK, comb the patient's hair over the paper. Allow patients to comb their own hair if they choose. Bindle the comb into the paper and place in the envelope. Bindling is the process of folding paper into thirds lengthwise then into thirds widthwise, and finally pocketing edges to prevent content slippage. Label and seal with examiner's initials. Place envelope in the SAEK. If patient has hair extensions and consents to collection, collect samples of hair extensions as evidence and notate the presence of hair extensions. If patient is aware, also notate if extensions are synthetic or human hair.

ix. Clothing: Purpose is to recover possible foreign matter or DNA and to note any damage to clothing. Foreign matter or DNA may be deposited on the patient's clothing during a sexual assault. Damaged or stained clothing may be evidence. Consider photographing damaged or stained clothing. Follow facility policies.

- a) Underwear: Regardless if the patient changed underwear (panties or other undergarments close to patients' genitalia) after the sexual assault, the examiner should always collect underwear if the patient consents. Body fluids may be transferred to the underwear. If the patient is not wearing underwear at the time of the assessment, collect clothing that was in direct contact with the patient's anogenital area or thighs. Underwear is to be placed in the SAEK, if there is space.
- b) Outer clothing: Clothing worn during the sexual assault or immediately afterward may have foreign DNA and should be collected. Typical clothing collected includes: bra, pants and shirts. Coats, socks and shoes may not need to be collected. Collection is based on the patient's description of the sexual assault and the examiner's prudent judgment. Clothing does not go in the SAEK (except underwear).

Clothing collection process:

- a) Put on new gloves. Place a clean sheet on the floor. Take the large changing paper out of the SAEK and spread it out on top of the clean sheet. Have the patient stand in the middle of the changing paper. Provide the patient some privacy when removing clothing (i.e. hold up a gown). Have the patient place individual items in separate areas on the changing paper.
- b) Label the changing paper. Inspect each piece of clothing. Document item, color and any damage on the forensic record. Label each item of clothing with patient's name, date seen and examiner's initials. Consider photographing damaged or stained clothing.

- c) Place each item of clothing in a separate paper bag. Clothing does not go in the SAEK. Dry wet clothing, if possible. If unable to dry wet clothing, arrange for release to law enforcement with chain of custody. Notify law enforcement that the clothing is wet so drying arrangements can be made. Bag each item individually to prevent cross-contamination. Seal and label each bag with date, time and examiner's initials. Seal all clothing bags inside a large bag. Seal and label large bag with date, time and examiner's initials.
  - d) Label each large bag with a number also. For example, if there is a SAEK plus one bag of clothing, label SAEK "1 of 2" and bag "2 of 2". This helps ensure all evidence stays together during evidence transfers.
- x. Dried secretions/debris: Purpose is to collect any dried secretions or debris found on the patient.

Recommended process: Put on new gloves. Inspect patient from head to toe. Using dried secretions/debris envelope, collect any suspected foreign material. Note on envelope description of the material.

- a) Debris: Bindle debris into a paper provided in the SAEK and place in the envelope. Label with site of collection and possible sample information and seal with examiner's initials. Place envelope in the SAEK.
- b) Dried secretions: Flake dried secretions onto a paper bindle included in the SAEK. Moisten swabs with sterile water. Swab site with two moistened swabs. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the dried secretions/debris envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
- c) Touch DNA: Purpose is to collect any foreign DNA on patient, based on description of assault, patient actions between the assault and the exam and, or assessment findings (i.e., if patient

describes being strangled, there may be foreign DNA on the patient's neck).

Recommended process: Wear gloves while completing head-to-toe patient assessment. Swab any sites patient states there may be foreign DNA. If patient lives with the assailant, touch DNA may have limited forensic value. "Use two lightly moistened swabs, from each affected area" (NIJ, 2017, p. 21). Using patient's own words, document site and source on SAEK envelope, swab box and forensic medical record. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in one of the dried secretions/debris envelopes. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

- xi. Fingernail swabs: Purpose is to collect foreign DNA in the event the patient describes scratching the suspect.

Recommended process: Put on new gloves. Moisten the two small swabs and swab under the patient's fingernails, one set of two swabs for left hand nails and one set of two swabs for right hand nails. Scraping with wooden stick is not recommended as it can cause injuries. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the fingernail swabs envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

- xii. Vulva swabs: Purpose is to recover foreign DNA.

Recommended process: Put on new gloves. Swab the vulva with two swabs total (simultaneously). Swab the inner labia majora and labia minora. Avoid the urinary meatus. Prevent contact of swabs with prepubertal female's hymen. Contact with the hymen can cause extreme pain in prepubertal females. It may be necessary to pre-moisten the cotton-tipped applicators with sterile water. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

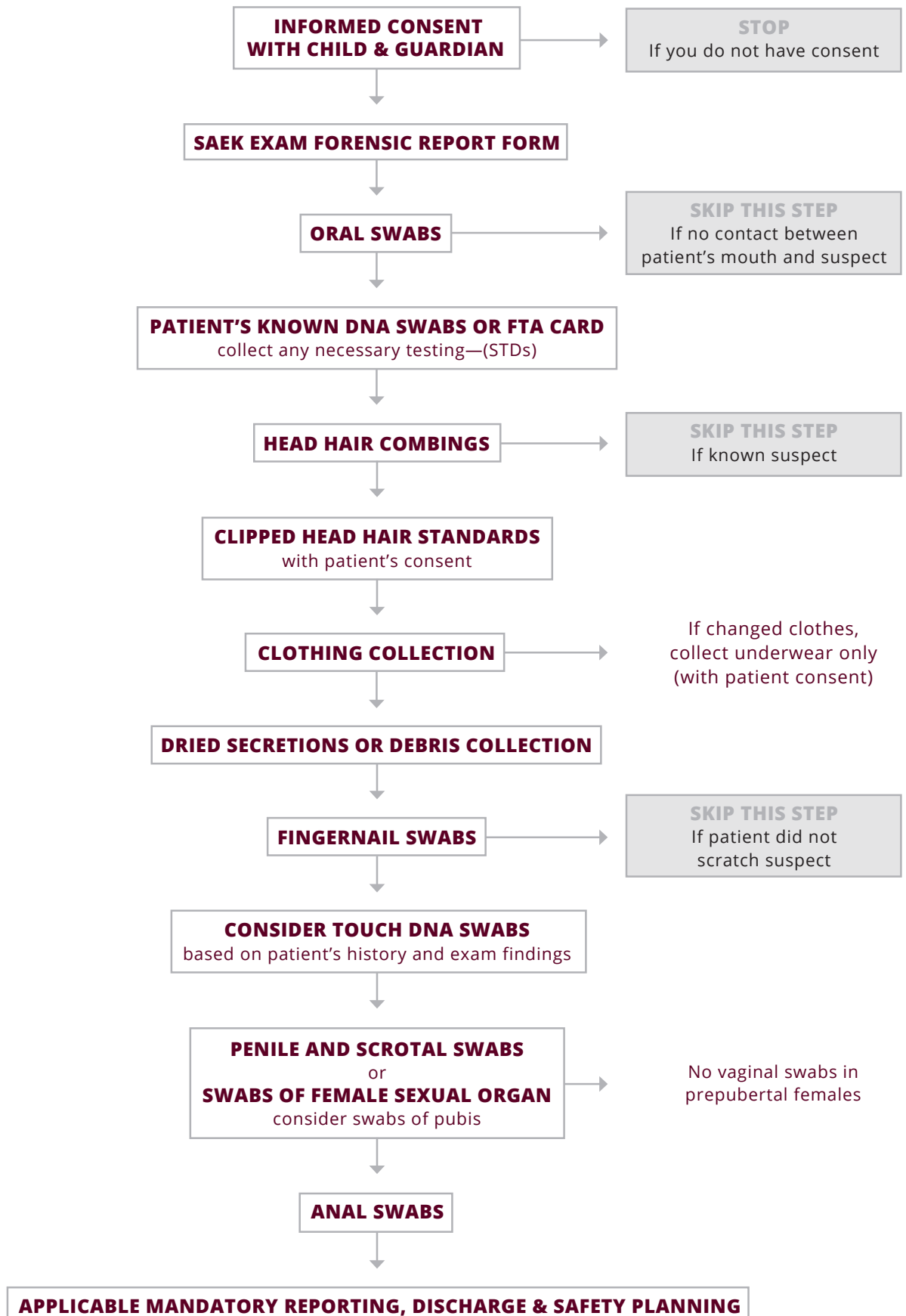


- xiii. Vaginal swabs: Should never be collected in prepubertal females (have not reached menarche), except under sedation with physician direction and supervision, or by physician directly.
- xiv. Penile swabs: Purpose is to recover foreign DNA.  
Recommended process: Consider allowing patient to swab his own penis. Change gloves. Pre-moisten two swabs and swab the head of the penis, staying away from the urethral meatus. Use same two swabs to swab under the foreskin and the shaft of the penis. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vaginal/cervical/penile swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
- xv. Scrotal swabs: Purpose is to recover foreign DNA.  
Recommended process: Change gloves. Pre-moisten two swabs. Use two swabs to swab the scrotum. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
- xvi. Anal swabs: Purpose is to recover foreign DNA.  
Recommended process: Change gloves. Pre-moisten two cotton-tipped applicators. Use two swabs to swab around the external anus. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the anal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
- xvii. Any retained objects in vagina or rectum: Purpose of collection is to recover foreign DNA or evidence.  
Recommended process: Collection of retained objects in prepubertal females should be done under sedation by physician, protocol, or direct supervision. Collect retained object. Air dry. Once dry, place in additional evidence envelope. Label envelope with patient's name, date, time and examiner's initials.

#### 4. Documentation

- a. Use facility-approved forensic medical assessment documentation forms. Use terms such as “reported” or “stated” rather than “alleged.” Document use of interpreter, if applicable. Follow facility protocol for electronic or written documentation. Print or write legibly.
- b. Document patient’s:
  - i. Pertinent medical and surgical history, and
  - ii. Medications.
- c. Complete forensic medical assessment documentation. Place one copy of forensic documentation in SAEK. Ensure there is a copy of the documentation for law enforcement. Original copy stays in the facility.
- d. Sealing SAEK: Change gloves. Remove red evidence labels and small bright orange biohazard label from SAEK. Once all evidence is appropriately labeled and sealed, seal SAEK with red evidence tape provided in the kit. Add biohazard label to front of SAEK. Complete documentation on the front of the SAEK.
- e. Sign, date and time over the evidence tape so signature goes from kit across label back to kit. This allows examiner to verify that tampering did not occur while testifying in legal proceedings.
- f. Complete appropriate chain-of-custody documentation when transferring evidence.

# PREPUBERTAL PEDIATRIC ASSESSMENT FLOWSHEET



## MILITARY FORMS

- Follow DoD protocol if patient presents to a DoD facility.
- See Sexual Assault Prevention and Response Office (SAPRO) Policy Toolkit link:  
<http://www.sapr.mil/index.php/policy/sapro-policy-toolkit>
- DoD Sexual Assault Forensic Examination (SAFE) Report (DD Form 2911):  
[http://www.sapr.mil/public/docs/miscellaneous/toolkit/dd2911\\_Sept\\_2015.pdf](http://www.sapr.mil/public/docs/miscellaneous/toolkit/dd2911_Sept_2015.pdf)
- DoD Sexual Assault Evidence Collection Kit Instructions and DD Form 2911:  
[http://www.sapr.mil/public/docs/miscellaneous/toolkit/dd2911\\_VICTIM\\_instructions\\_Sept\\_2015.pdf](http://www.sapr.mil/public/docs/miscellaneous/toolkit/dd2911_VICTIM_instructions_Sept_2015.pdf)

## **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY (HIPAA) ACT OF 1996**

### **KEY POINTS**

- A medical forensic exam is a medical exam that in most cases is subject to the Health Insurance Portability and Accountability Act of 1996.
- In Texas, anyone who collects or manages protected health information is a covered entity and must comply with HIPAA (Texas Health & Safety Code §181.001, 2015).
- Health care providers may share copies of patient medical records only with other health care providers or health plans as needed for treatment or payment (HIPAA Privacy Rule).
- Health care providers may provide information to law enforcement without patient consent if the information is used to identify or locate a suspect, fugitive, material witness or missing person, or to inform law enforcement about the commission and nature of a crime.
- Physicians and hospitals may not destroy a medical record from the forensic medical examination of a sexual assault victim until the 20<sup>th</sup> anniversary of the date the record was created (Texas Health and Safety Code §241.1031, 2019).  
<https://statutes.capitol.texas.gov/Docs/HS/htm/HS.241.htm#241.103>
- Health care providers should obtain patients' verbal and written consent to provide a copy of their forensic medical assessment record to law enforcement and attorneys and only with a subpoena or following facility policy.
- Health care providers may share information without patients' consent in response to court orders issued by a judge, limited to the information requested in the court order.
- Health care providers do not need to obtain consent to report child abuse or child/dependent adult sexual abuse/assault to law enforcement and Child Protective Services (Texas Family Code 261.001, 2017).  
<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.261.htm>
- Gunshot wounds and controlled substance overdoses must be reported to law enforcement under Texas law (Texas Health & Safety Code §161.041, 2013).
- Patients have a right to inspect, review and receive a copy of their medical records under HIPAA.

- In Texas, providers must give patients a copy of their medical record within 15 business days of a written request if using electronic health records (Texas Health & Safety Code §181, 2015).
- Allowable exceptions under HIPAA to providing patients with a copy of their medical records are uncommon in sexual assault medical forensic examinations.
- Denials to release medical records to patients must be provided within 60 calendar days of a request and can be appealed.
- Health care providers can request patients meet with them to review patients' medical records and discuss concerns about releasing them; however, they cannot require patients to meet with them as a condition for providing the records.
- Medical records of students receiving health care at campus health centers are an exception; they are covered by Family Educational Rights and Privacy Act of 1974 (FERPA, 2013) and HIPAA.

## PHOTOGRAPHS

- **Informed consent must be obtained from adult patients prior to obtaining photographs. Informed consent from the adult parent/caregiver/guardian should be obtained for child patients. Assent from children for obtaining photographs is recommended. Patients have the right to know how photographs will be stored and utilized.**
- Reassure patients that the photographs are for medical forensic purposes and are protected in medical facilities.
  - Photographs and use of camera devices must follow facility protocols and be maintained appropriately.
  - **Do not use personal photography equipment/phones for taking photographs.** Chain of custody and confidentiality of photographs cannot be maintained while using personal photography equipment.
  - Photographs may be sealed by court order at conclusion of the legal proceedings (Texas Code of Criminal Procedure §38.45, 2011). Link: <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.2.htm>
  - “‘Covered entity’ means any person who: (A) for commercial, financial, or professional gain, monetary fees, or dues, or on a cooperative, nonprofit, or pro bono basis, engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling, collecting, analyzing, using, evaluating, storing or transmitting protected health information. The term includes a business associate, health care payer, governmental unit, information or computer management entity, school, health researcher, health care facility, clinic, health care provider or person who maintains an Internet site; (B) comes into possession of protected health information” (Texas Health and Safety Code §181.001, 2015).  
Link: <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.181.htm>
- Photographs can be an important adjunct to the physical findings noted by the examiner on the body surface diagrams.
- Policies should be in place that outline the process for obtaining photographs, the method to be used to identify the patient in the photographs, and the means to link the photographs to the permanent medical record for each patient.

- Photographs make it possible to obtain additional expert opinion of findings without requiring the patient to undergo additional assessments.
- Photographs are useful as part of a peer review process to help ensure competent forensic medical assessments.
- Photographs may be used in some legal proceedings to demonstrate physical findings.
- In children who experience recurrent sexual abuse, evaluation and comparison of findings is possible with good quality images (Botash, 2009).
- Photographs may be taken of normal findings, based on jurisdictional policies. In prepubescent patients, photo-documentation is considered a standard of care for both normal anatomy as well as for injuries (DoJ, 2016).
- Photograph or image management:
  - Anogenital photographs and images may not be routinely released to law enforcement;
  - Consider releasing anogenital photographs, images or videos only to prosecution with subpoena, after patient's express written consent;
  - Ensure there are clear statements in health record regarding if (type of photographs or images) photographs or images taken.
- Additionally, Texas Government Code §420.032 states, "In a county with a population of three million or more, the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault must include the production of photo-documentation unless the medical professional examining the child determines that good cause for refraining from producing photo-documentation exists. The photo-documentation must include images of the child's anogenital area and any signs of injury apparent on the body of the child. If photo-documentation is not produced, the medical professional conducting the forensic portion of the medical examinations shall document in the child's medical records the reason photo-documentation was not produced."

Link: <https://statutes.capitol.texas.gov/docs/GV/htm/GV.420.htm>



## CONSENT

- Obtain written informed consent or authorization to conduct the forensic medical assessment before proceeding.
- Written, informed consent requires that the examiner has explained the forensic medical assessment process and the purpose of the assessment, including patients' right to decline any part or all of said assessment.
- Informed consent is a process, not a single event or document. Continue to inform the patient about the process throughout the forensic medical assessment. Patients have the right to decline any part of the assessment, even after signing the written informed consent document.
- In the case of suspected abuse or neglect, the health care provider does not need to obtain informed consent from the patient or caregiver (Texas Family Code §32.005); however, it is a good idea to obtain written informed consent if possible.
- Obtain a separate written informed consent document for photographs.
  - Inform patients how photographs will be used (e.g., investigation, trial, education/training/peer review), the parts of the body you will photograph, and patients' right to decline photographs of any part of the body.
  - Patients have the right to receive a forensic medical assessment if they decline photographs.
- Obtain a separate written informed consent document to release forensic medical assessment information to law enforcement, attorneys and/or the Department of Family and Protective Services.
- A minor patient aged 16 or older can decline an assessment even if the health care provider suspects abuse or neglect (Texas Family Code §32.005).
- Written informed consent for treatment of a minor must include (Texas Family Code §32.002):
  - Name of the child,
  - Name of one or both parents and any guardians of the child,
  - Name of the person providing consent and relationship to the child,
  - Statement of the nature of the medical treatment, and
  - Date of treatment.

- Obtain verbal assent from minors before conducting an assessment; document if patient declines the anogenital assessment.

## **FORENSIC MEDICAL ASSESSMENT DOCUMENTATION**

- Some facilities use paper documentation while others use electronic medical record documentation or a hybrid of written and electronic documentation. In all patient interactions, it is important to maintain confidentiality of patient forensic medical assessment documentation according to HIPAA.
- In addition to the standard privacy protections, sexual assault forensic medical assessment records contain sensitive information that have potential for use in criminal and/or civil investigations and prosecution.
- As with all medical records, access to forensic medical assessment records must be limited to authorized parties for treatment and payment purposes and to those for whom patients have provided specific written consent or as required by law (see HIPAA, page 61).
- “Documentation in the medical forensic record is critical not only for victim care in the aftermath of sexual assault but also in the investigation of the crime and processing of any evidence collected during the exam” (DoJ, 2017, p. 28).
- Health care professionals who collect sexual assault evidence samples “should record an inventory of each item as part of the medical forensic documentation” (DoJ, 2017, p. 28).

### **PATIENT’S HISTORY OF THE INCIDENT(S)**

- Inform patients that the examiner:
  - Will ask about the sexual assault,
  - Needs to know what happened so that the examiner:
    - Knows what treatment to offer based on the health risks the patient was exposed to, and
    - Knows what parts of the body to collect evidence from, if the patient wishes to have evidence collected.
- For adolescent or adult patients, examiner should ask them to start from what they remember just before the sexual assault occurred to when they arrived at the facility.
- Write or type exactly what patients say verbatim, with quotation marks at the beginning and end of their history.

- For many patients, providing the history is one of the most traumatic parts of the examination. Using trauma-informed patient care techniques allows the patients to proceed through the examination process at a pace that is comfortable for them.
- **Best practice: Use open-ended questions that allow for narrative responses.**
- For prepubertal children, the process is slightly different:
  - Avoid extensive interviewing of children if examiner is not a trained sexual assault nurse examiner, specially trained medical forensic professional or a specially trained forensic physician.
  - Clarification questions may need to be asked to ensure examiner has the full history, in order to provide appropriate medical care and treatment.
- Offer patients the opportunity to write their history down if they do not wish to state it out loud.
- If patient is able to add detail, ask them to clarify unclear statements that are relevant to the medical forensic examination.
  - For example, ask them to clarify what they mean by various terms related to body parts and to specify exactly which body parts had contact. Patients may prefer to indicate body parts by pointing on their own bodies or on body diagrams.
  - Remind patients that the purpose of these clarifications is to offer appropriate treatment and collect relevant evidence.
  - Examples:
    - “Is there anything else that happened to you?”
    - “Is there something else I need to know?”
- Direct quotations are best practice (DoJ, 2016, p. 126).
- Thank patients for providing the history once complete and acknowledge that it may be difficult to talk about.
- If typing the history on a computer into a document for printing, consider signing the document to include your credentials and date; delete the document from the computer if it is not a part of an electronic medical record.

## SEXUAL ASSAULT FORENSIC MEDICAL ASSESSMENT DOCUMENTATION

### Injury Documentation

- Document injuries using **both** body diagrams and photography if patient has given written consent and verbal assent throughout the examination process.
- If no injuries were observed, document on body diagrams, “No visible trauma noted.”
- **Adults:** Document acute injuries only, unless there is a pattern of abuse that the patient discloses.
- **Prepubertal children:** Document all pertinent injuries.

### **Key points – Body Diagrams:**

Consider the following:

- Use the body diagrams provided in the sexual assault evidence collection kit, facility-approved diagrams or diagrams available online at link:  
[https://cdn.ymaws.com/www.safeta.org/resource/resmgr/forms\\_library/ANATOMICAL\\_DIAGRAMS.pdf](https://cdn.ymaws.com/www.safeta.org/resource/resmgr/forms_library/ANATOMICAL_DIAGRAMS.pdf)
- Use a body diagram that most closely matches the anatomy and developmental stage of the patient at the time of the examination. Adult/adolescent, child and infant diagrams are available in the SAEK.
- If patient’s anatomy is different than their gender identity, consider documenting “patient identifies as female/male.”
- Use supplemental body diagrams to show injury to parts of the body not easily documented on the full body diagram (i.e., face, head, neck, hands or feet).
- Use an anogenital diagram to document anogenital injuries.
- Consider including a body diagram and an anogenital diagram in every forensic medical record even if no injury is found. (See diagrams on pp. 6–9.) Follow facility policy.
- Place a patient label with the patient’s full name, date of birth and medical record number on each body diagram.
- If no injury is found, document such, or note on the body diagram by checking the box “No injury noted.”
- Document the measurement, description and location of each injury (in mm or cm) on the body diagram that corresponds to the location of the injury on the patient. Use arrows or numbering to indicate the location of each injury described.

- Describe the injury. See definitions on page 14 for list of medical forensic terminology.
- Document the location of anogenital injuries using clock positions when the patient is lying on her/his back. For example, an injury to the clitoris would be at 12 o'clock.
- If you used toluidine blue dye (TBD), document this and positive dye uptake on the anogenital diagram. TBD should be used only by specially trained medical forensic professionals.
- Sign name, with credentials, and the date on every diagram.

### **Photographic Documentation**

- These photographic documentation recommendations are for specially trained forensic medical professionals.
- Photographs should be taken by the health care provider conducting the forensic medical assessment, respecting the dignity and privacy of the patient. "Taking photographs of patient's anatomy that was involved in the assault should be part of the medical forensic examination process in sexual assault cases" (DoJ, 2013, p. 91).
- Do not take photographs of the anogenital area unless you are a specially trained medical forensic professional. Law enforcement or child protective services case workers should not take anogenital photographs (DoJ, 2016).
- "Photographs taken during the medical forensic examination become part of the patient's 'medical record'" (DoJ, 2016, p. 129) or per facility policy.
- "Examiners are encouraged to seek training on photography techniques and procedures" to use with patients who experienced sexual violence (DoJ, 2016, p. 129).
- "Respect patients' choices regarding photography." If the patient "does not assent to all or any part of photography, their choices must be honored" (DoJ, 2016, p. 130).
- Recommendations:
  - "Consider the extent of forensic photography necessary.
  - Consider the equipment.
  - Be considerate of patient comfort and privacy. Strive to minimize the patient's discomfort while being photographed.
  - Explain forensic photography procedures to patients.
  - Take initial and follow-up photographs as appropriate, according to jurisdictional policy" (DoJ, 2013, p. 91).

- **Basic photographic principles:**
  - “Patient identification—Link patients’ identifying information to each photographic image, according to jurisdictional and facility policy. For example, include patient name, date and time as the first image” (DoJ, 2016, p. 131).
  - Clear and accurate photographs—Images taken that do not provide a clear and accurate depiction can be deleted.
  - “Standard—Use a standard or ruler for size reference in photographs, in addition to those photographs that identify patients and anatomical locations being photographed” (DoJ, 2016, p. 131).
  - Take photographs of the patient “prior to the collection of forensic specimens and medical interventions, such as cleaning or suturing, when possible. Do not alter or move forensic evidence before photographing” (DoJ, 2016, p. 131).
  - “Orientation of shots. Take at least three shots at different distances from the body:
    - Take an overview image of the injury’s location, including anatomical landmarks for orientation of the injury.
    - Take medium-range photographs of each injury, providing a wide enough view to identify the specific anatomical site being photographed.
    - Take close-up images of injuries, with and without the standard. The goal of the close-up images should be to capture subtleties in texture and color and any pattern injuries that may be observed” (DoJ, 2016, p. 131).
  - These are recommendations; not all patients will tolerate or consent to the above process.
- **Procedure for anogenital injuries:**
  - Photograph genitalia injuries before inserting a speculum.
  - Use a hands-free method for photograph or image-capture, if possible, so you can use both hands to better visualize anatomy. Use various techniques to better identify injuries or other findings to the genitalia and/or anus.
- Use of toluidine blue dye (TBD): Only use TBD if forensically trained in the use of TBD.
  - “Toluidine blue dye binds to nucleated squamous cells in the deeper layers of epidermis and when properly applied will only stain areas with acute injuries or areas that have been recently abraded of the top epithelial layer. Use of toluidine blue dye

increases the sensitivity of injury detection in the forensic exam and can assist in illuminating injuries for photography and view by non-medical personnel” (American College of Emergency Physicians, 2014 p. 67).

- If using TBD to visualize anogenital injuries:
  - Consider taking a series of photographs without the dye first.
  - Apply the dye and photograph before removing dye.
  - Consider photographing injuries with dye uptake, after removing excess dye.

### **Documentation of Assessment Findings, Concerns and Treatment Plan**

#### **Key Points:**

Document in the medical record any relevant areas of concern and plan of treatment to address.

- All tests, medications and treatments provided, including but not limited to:
  - Pregnancy test.
  - Tests for sexually transmitted diseases (including HIV).
  - Medications and prescriptions provided; medications declined and reasons for declining.
- Assessments, including but not limited to:
  - Head-to-toe and anogenital assessments.
  - Use of speculum (females who are post-menarchal only).
  - Use of toluidine blue dye (use only if trained).
  - Use of foley catheter to visualize hymen (use only if trained).
  - Use of colposcope, digital photographs and alternate light source.
- Evidence collected, including but not limited to:
  - Swabs and trace evidence from the patient’s body, location and why it was collected.  
Put on envelope in patient’s own words using quotes, if they give a reason.
  - Clothing.
  - Photographs taken.
- Discharge instructions signed by both the health care provider and the patient.
- Consider utilizing statements such as, “Sexual assault by history,” or “Concern for sexual assault” as statement of reason for visit.
- Refrain from documenting opinions.
- Refrain from the use of “alleged.”



## **CHAIN OF CUSTODY**

### **Ensure transfer policies maximize evidence preservation.**

- Minimize transit time between collection of evidence and storage of evidence.
- To avoid potential degradation of evidence, it is important to transport kits containing liquid samples and other wet evidence in a timely fashion. Best practice is to not include liquid samples or wet evidence in the SAEK.
- Only a law enforcement official or duly authorized agent should transfer evidence from the exam site to the appropriate crime laboratory or other designated storage site (i.e., law enforcement property facility).
- Jurisdictional procedures for evidence management and distribution must be in place and followed.
- Those involved in evidence management and distribution should be educated on the specifics of these procedures and their responsibilities.

### **Document the handling, transfer and storage of evidence.**

- Examiners must maintain custody of evidence during the exam, while evidence is being dried, and until it is in the SAEK and sealed.
- After that, follow jurisdictional procedures for storing evidence securely or handing it over to a duly authorized agent.
- SAEK and associated evidence should be sealed as soon as possible after collection, and evidence should not be opened by anyone except the crime laboratory personnel.
- Documentation of custody transfer occurs with each transfer of the evidence to law enforcement, the crime laboratory or others involved in the investigative process.
- Patients, advocates, family members and other support persons should not handle evidence. Documentation of chain of custody information is vital to ensuring no loss or alteration of evidence occurred prior to legal proceedings.
- Educate all those involved in collecting, transferring and storing evidence about the specifics of maintaining chain of custody.
- If the patient is transferred between facilities, staff at both facilities should be careful to complete this documentation of evidence chain of custody.

## MEDICAL TREATMENT OF PATIENT

### Sexually Transmitted Diseases

- For latest sexually transmitted disease (STD) testing and treatment guidelines, see Centers for Disease Control (CDC) and Prevention STD Treatment Guidelines (2015): <https://www.cdc.gov/std/tg2015/tg-2015-print.pdf>
- Testing:
  - Nucleic acid amplification tests (NAATs) for *Chlamydia trachomatis* (*C. trachomatis*) and *Neisseria gonorrhoeae* (*N. gonorrhoeae*) of the suspected or completed penetration/contact sites.
  - Wet prep, urine or vaginal NAAT for *Trichomoniasis vaginalis*.
  - Wet prep, vaginal pH and potassium hydroxide (KOH) or bacterial vaginosis and candidiasis.
  - Serum samples for:
    - HIV,
    - Hepatitis B, and
    - Syphilis.
- Prophylaxis or treatment (patients over 45 kg):
  - Ceftriaxone 250 mg IM in a single dose, plus
  - Azithromycin 1 g orally in a single dose, plus
  - Metronidazole 2 g orally in a single dose (females). Contraindicated if alcohol consumption. Consider providing a prescription.
  - See CDC (2015) for other treatment options.  
Link: <https://www.cdc.gov/std/tg2015/default.htm>
- Consider prophylaxis or treatment (patients over 45 kg):
  - Post-exposure hepatitis B vaccination without hepatitis B immune globulin (HBIG), plus
  - Human papillomavirus (HPV) vaccination for all sexual assault patients over 9 years of age and under 27 who have not received vaccine previously, plus
  - HIV nPEP (refer to CDC, 2016, for current recommended treatment regimen).  
Link: <https://www.cdc.gov/hiv/basics/pep.html>
- Prophylaxis or treatment (patients under 45 kg):
  - Ceftriaxone 25–50 mg/kg IM in a single dose (not to exceed 125 mg), plus

- Erythromycin 50 mg/kg/day PO divided into four doses/day for 14 days.
- See CDC (2015) for other treatment options.

Link: <https://www.cdc.gov/std/tg2015/tg-2015-print.pdf>

- **Consider treatment (patients under 45 kg):**

- Post-exposure hepatitis B vaccination without HBIG, plus
- Human papillomavirus (HPV) vaccination for all sexual assault patients over 9 years of age and under 27 years of age who have not received vaccine previously, plus
- HIV nPEP (refer to CDC, 2016, for current recommended treatment regimen).

Link: <https://www.cdc.gov/hiv/basics/pep.html>

### **Pregnancy Prophylaxis**

- Emergency contraception is also referred to as “the morning after pill” or “emergency prophylaxis pill (ECP).”
- May be taken within five days (120 hours) after sexual assault to reduce the risk of pregnancy.
- ECP works by temporarily stopping the ovary from releasing an egg, or preventing fertilization of an egg (the uniting of sperm with the egg) or by preventing attachment (implantation) to the uterus (womb).
- Ensure all female patients have informed consent on pregnancy prophylaxis.
- Catholic patients have the right to protect themselves from an unwanted pregnancy related to sexual assault. See Ethical and Religious Directives for Catholic Health Care Services Doctrine 36 (2009).

Link: <http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf>

- Emergency contraception is a method of birth control to be used occasionally in specific emergency situations, not as a primary form of birth control.
- Using emergency contraception should not be confused with taking medicine to induce an abortion. The “abortion pill” contains different medications.
- Hormonal or intrauterine emergency contraception will not interfere with an existing pregnancy.

- Women who cannot use estrogen-containing hormonal birth control as their primary method of contraception (such as those with a history of heart attack, stroke, clotting disorders, migraine headaches or liver disease, or who are breastfeeding) can use emergency contraception because the hormones are taken for only one day.

### **Pregnancy Prophylaxis Treatment:**

- Regimen containing a form of the hormone progesterone called **levonorgestrel**.
  - Single-dose regimen is Plan B One-Step 1.5 mg tablet (My Way, Next Choice One Dose) OR two-dose regimen is Plan B (0.75 mg) tablets (Plan B available OTC for everyone). Ella is more effective in women with BMI >26.
  - Most effective if taken within 72 hours (3 days) but can be taken up to 5 days (120 hours).
- Combination regimen containing forms of two hormones, progesterone and estrogen, is most effective when taken as soon as possible up to 120 hours (5 days) after sexual assault.
- Ulipristal acetate (Ella, EllaOne) is not a hormone. It is a synthetic compound that works by blocking progesterone receptors. This delays ovulation and/or prevents implantation.
  - Effective up to 120 hours (five days) after sexual assault, and evidence supports it is as effective on day five as it is day one.
  - Ella is more effective than Plan B One-Step if taken more than 72 hours post unprotected vaginal-penile intercourse (Rosato, Farris, & Bastianelli, 2016).
  - If a patient is taking hormonal contraception and has not missed a dose, using Ella might make their birth control less effective (i.e., giving Ella “just in case” is contraindicated in these patients).

### **Pregnancy Prophylaxis in Women with Higher BMIs:**

- In women who weigh 165 pounds (75 kilograms) or more, or have a BMI >26, ulipristal acetate (Ella, EllaOne) seems to be more effective than levonorgestrel. All forms of emergency contraceptive (including Ella and others) may be less effective in women with BMI >26.

### **Side Effects of Pregnancy Prophylaxis:**

- Nausea and vomiting are the most common side effects of ECP.
- Altered menstrual cycle, to include:

- Menstrual cycle may be sooner, later, longer or shorter than patient's normal cycle.
- Educate patient that if she does not have her cycle within three or four weeks of taking emergency contraception, she should take a pregnancy test.
- Other side effects include headache, fatigue, abdominal pain, dizziness and dysmenorrhea. Side effects are typically less common and milder with Ella than other pregnancy prophylaxis.

### **HIV Non-Occupational Post-Exposure Prophylaxis (HIV nPEP)**

- While documented cases of HIV infection from sexual assault have not been widely published, there is still a risk of transmission (CDC, 2016) and individual cases have been documented. Therefore, it is important to assess the level of risk after a sexual assault has occurred.
- Providers should offer prophylactic treatment to reduce the risk of seroconversion as appropriate within 72 hours of contact (CDC, 2015).
- HIV Prophylaxis Hotline (888) 448-4911
- HIV nPEP resources:
  - 2016: <https://www.cdc.gov/hiv/pdf/programresources/cdc-hiv-npep-guidelines.pdf>
  - May 23, 2018: <https://www.cdc.gov/hiv/pdf/basics/cdc-hiv-dolutegravir-alert.pdf>

### **Risk Assessment for Children within 72 Hours of Sexual Assault**

- HIV prophylaxis is a 28-day regimen of three classes of medications and requires baseline laboratory testing and follow-up to monitor adherence, side effects and HIV status. Patients may be required to pay up-front costs for medications and seek reimbursement through Crime Victims' Compensation, if reporting the assault to law enforcement.
- Assess the risk for HIV infection in the assailant, if possible.
- Evaluate risk based on the circumstances of the assault as related to risk of possible transmission.
- Consult with an Infectious Disease specialist for medication and dosing recommendations if considering initiating nPEP.
- Discuss with the caregiver the risks and benefits of prophylactic treatment.
- Obtain a baseline HIV test of the child at the time of the medical forensic examination.

- If nPEP is initiated, also order a CBC and serum chemistry at the time of the medical forensic examination.
- Provide enough medication to last until the first follow-up visit, ideally 3–7 days. Infectious disease specialist will then assess tolerance to the medications.

### **HIV Follow-up Care**

- Referrals for follow-up care, testing and monitoring of laboratory values are critical in the sexual assault population.
- Therefore, all options (cost, side effects, benefits and risks) should be discussed at discharge with the patient and/or caregivers to determine the best plan of care.

### **Quick Links to the Guidelines**

- Updated Guidelines for Antiretroviral Post-Exposure Prophylaxis after Sexual, Injection Drug Use, or Other Non-Occupational Exposure to HIV—United States, 2016:  
<https://www.cdc.gov/hiv/pdf/programresources/cdc-hiv-npep-guidelines.pdf>
- 2015 Sexually Transmitted Diseases Treatment Guidelines: Sexual Abuse and STDs:  
<https://www.cdc.gov/std/tg2015/sexual-assault.htm#riskHIV>

## **TREATMENT OF OTHER INJURIES AND MEDICAL CONDITIONS**

- **Acute medical concerns “take precedence over evidentiary needs”** (DoJ, 2013, p. 83).
- In conducting the medical forensic examination, any medical needs should be addressed in a timely manner.
- Injuries should be thoroughly documented before and after treatment.
- Health care professionals with forensic education and training should document on all injuries, the following:
  - Type of injury,
  - Location,
  - Size,
  - Shape,
  - Color,
  - Depth, if possible,
  - Any treatment rendered, and
  - Pain rating and pain scale used.

- Strangulation and head trauma are medical emergencies requiring physician evaluation before or concurrently with the medical forensic examination.
- If available, health care professionals should describe injuries in a written narrative, draw on diagrams and/or photograph the area of interest.
- Evidence such as debris, paint chips or other trace items may be found in wounds. Collect the debris and place in a sterile cup, or fold in paper bundle and place in evidence envelope.
- Seal the urine cup and maintain chain of custody until it may be released or locked securely.
- Evidence collection is secondary to addressing the immediate medical and psychological needs of the patient.
  - **Once the patient is stable, offer a medical forensic assessment. Medical forensic assessment may occur concurrently with medical stabilization.**
  - **A physician can determine capacity to consent to a medical forensic examination, even in the presence of acute mental illness.**

## SUSPECTS

- Forensic exams of suspects are sometimes requested by law enforcement to collect evidence of a crime.
- Forensic exams of suspects should adhere to the same timeframe as collection for survivors, unless certain circumstances suggest otherwise.
- **Sexual assault suspect examinations should be completed only by specially trained medical forensic professionals such as SANEs (DoJ, 2017).**
- Care should be taken to prevent cross-contamination of evidence between patients.
- The forensic exam will be paid for by the law enforcement agency requesting the exam but will not be reimbursed from Crime Victims' Compensation.
- If the suspect is taken into custody shortly after the commission of the offense, law enforcement should make every effort to have evidence collected from the suspect's body, with the assistance of a SANE or other medical staff familiar with suspect collection protocols.
- Juvenile sexual assault suspect examination is similar to an adult suspect examination.
- Three methods of authorization for a suspect forensic exam are as follows:
  - Law enforcement has consent from the suspect.
  - Law enforcement has obtained a search warrant. (Law enforcement should read the Miranda warning prior to the exam, due to any answers given by the suspect to the SANE during the exam.)
  - If probable cause exists, law enforcement can obtain clothing from the suspect and/or survivor, without consent, if law enforcement believes evidence from the crime is likely to be located on the clothing. Law enforcement agencies are encouraged to establish procedures with their district attorney for forensic exams on sexual assault suspects.

## FORENSIC CARE OF SUSPECTS

- Health care professionals are encouraged to document the legal authority (search warrant, consent, exigent circumstances) used by law enforcement for collection of evidence from the suspect.
- Forensic exams will be paid for by the law enforcement agency requesting the exam.



- It is recommended that suspects in handcuffs remain handcuffed during the exam for safety and to avoid possible destruction of evidence. Collaborate and communicate with law enforcement on best way to maintain safety of everyone.
- It is recommended that the examiner ask for suspects to be supervised by law enforcement at all times, for safety and to avoid destruction of evidence.
- When the investigation identifies a suspect, the investigating officer may attempt to collect a suspect DNA reference standard. A sexual assault suspect forensic examination may be included.
- If the suspect consents to submission of DNA evidence, the suspect's consent shall be documented in the law enforcement case report and in the forensic documentation at the health care facility.
- If the suspect declines to submit DNA evidence, a search warrant may be required to collect the DNA reference standard.
- When sexual assault suspect forensic examinations are performed on a suspect who is in custody, the investigating officer shall advise the suspect of their rights as required by the Miranda decision prior to the suspect being asked any questions by the medical forensic examiner.
- The methods used to obtain the suspect DNA evidence shall be documented in the case report.
- The suspect's DNA evidence shall be collected, submitted for testing, stored and retained.

## **PATIENTS WHO ARE IN TEXAS DEPARTMENT OF CRIMINAL JUSTICE FACILITIES**

- Texas Department of Criminal Justice (TDCJ) is responsible for statewide criminal justice for adult offenders, including managing offenders in state prisons, state jails and private correctional facilities.
- Follow medical and criminal justice facility policies on care and treatment of patients in custody.
- When a patient is a prisoner incarcerated in a TDCJ facility, it is recommended to:
  - Contact the Office of Inspector General (OIG) at 281-853-5947 for authorization to complete a medical forensic sexual assault examination with evidence collection.
  - Request an OIG case number; however, initially you may receive an Emergency Action Center (EAC) incident number. Record the investigator's name.
  - Have the patient voluntarily consent to have the medical forensic sexual assault examination with evidence collection.
- **During the forensic medical assessment:**
  - Have the TDCJ officer present at all times. Although inmates are patients, they are in the custody of TDCJ.
  - Remove any object in reach of the patient.
  - Request officer does not remove the handcuffs from the patient unless indicated in order to conduct the examination.
    - If needed and authorized by the referring facility, ask the TDCJ officer to remove entire upper or lower handcuffs.
    - Do not remove both upper and lower handcuffs at the same time.
    - Immediately have the officer replace handcuffs when that step of the exam is completed.
  - Contact the OIG upon completion.
  - Release the evidence to the OIG investigator or person designated by the OIG as investigator.

## **PATIENTS WHO ARE IN YOUTH DETENTION, ALSO KNOWN AS A JUVENILE DETENTION CENTER**

- Juvenile Detention Center (JDC) is a secure prison or jail for persons under the age of 18 years.
- Secure detention is for short periods of time in order to await current trial hearings and further placement decisions.
- Secure confinement implies that the juvenile has been committed by the court into the custody of a Secure Juvenile Correctional facility for months to years.
- When a patient is a prisoner incarcerated in a Texas JDC facility:
  - Contact the law enforcement of jurisdiction where the sexual assault occurred for authorization to complete a medical forensic sexual assault examination with evidence collection.
  - Request a law enforcement sexual assault case number.
  - The patient voluntarily consents to have the medical forensic sexual assault examination with evidence collection.
- **During the forensic medical assessment:**
  - Have the officer present at all times. Although inmates are patients, they are in the custody of JDC.
  - Remove any object in reach of the patient.
  - Request officer does not remove the handcuffs from the patient unless indicated in order to conduct the examination.
    - If needed and authorized by the referring facility, ask the officer to remove entire upper or lower handcuffs.
    - Do not remove both upper and lower handcuffs at the same time.
    - Immediately have the officer replace handcuffs when that step of the exam is completed.
  - Release the evidence to the officer/detective designated by the law enforcement agency.

## **PATIENTS WHO ARE IN THE COUNTY JAIL**

- Inmates serving time that is less than a year, inmates that are awaiting their sentence, and inmates that were unable to make bail may be in a facility managed and operated by the County Sheriff.
- Contact the law enforcement of jurisdiction where the sexual assault occurred for authorization to complete a medical forensic sexual assault examination with evidence collection.
- Request a law enforcement sexual assault case number.
- The patient voluntarily consents to have the medical forensic sexual assault examination with evidence collection.
- **During the forensic medical assessment:**
  - Have the officer present at all times. Although inmates are patients, they are in custody.
  - Remove any object in reach of the patient.
  - Request officer does not remove the handcuffs from the patient unless indicated in order to conduct the examination.
    - If needed and authorized by the referring facility, ask the officer to remove entire upper or lower handcuffs.
    - Do not remove both upper and lower handcuffs at the same time.
    - Immediately have the officer replace handcuffs when that step of the exam is completed.
  - Release the evidence to the officer/detective designated by the law enforcement agency.

## ELDERLY PATIENTS WHO ARE SEXUALLY ASSAULTED

- See Texas Human Resources Code §48.001–48.054:  
<https://statutes.capitol.texas.gov/Docs/HR/htm/HR.48.htm>
- Elderly is defined as “65 years of age or older” (Texas Penal Code §22.04).
- Elderly patients shall be afforded same rights as any other forensic patient.
- Elderly patients may consent or decline any portion or all of the sexual assault medical forensic examination.
- **Mandatory reporting of suspected elder abuse (65 years or older), sexual assault or abuse of the elderly shall occur regardless if the patient wishes to report to DFPS.**
- Call the Texas Department of Family and Protective Services (DFPS) Abuse Hotline toll-free 24 hours a day, 7 days a week, nationwide, or report with secure website (reporter receives a response within 24 hours):
  - Telephone: 1-800-252-5400
  - Online: <https://www.txabusehotline.org/Login/Default.aspx>
- Reporting to Texas Health and Human Services (formerly Department of Aging and Disability) may also be necessary if the patient was in a facility [(800) 458-9858].
- As with any patient who was sexually assaulted, discharge safety planning is important.

## PATIENTS WITH DISABILITIES

- Individuals presenting with disabilities may exhibit a wide range of skills and functioning.
- Disability may involve physical impairment, sensory impairment, cognitive or intellectual impairment, mental disorder or various types of chronic disease.
- Ask patient and/or guardian or family member for direction on patient's abilities, and how to best support those abilities.

## MANDATORY REPORTING

Texas law (Family Code §261.101 and Human Resources Code §48.051) mandates that anyone who believes a child (under 18 years of age), person 65 years or older or an adult with disabilities is being abused, neglected or exploited must report it to DFPS. This responsibility **cannot be delegated** to another person.

- Family Code: <https://statutes.capitol.texas.gov/docs/FA/htm/FA.261.htm>
- Texas Human Resources Code:  
<https://statutes.capitol.texas.gov/SOTWDocs/HR/htm/HR.48.htm>

A person who reports abuse in good faith is immune from civil or criminal liability. DFPS keeps the name of the person making the report confidential. Anyone who does not report suspected abuse can be held liable for a misdemeanor or felony.

Call the DFPS Abuse Hotline toll-free 24 hours a day, 7 days a week, nationwide, or report with secure website (reporter receives a response within 24 hours):

- Telephone: 1-800-252-5400
- Online: <https://www.txabusehotline.org/Login/Default.aspx>

## KEY CONSIDERATIONS FOR PATIENTS WITH A DISABILITY

- It is important for medical professionals to understand the individual's ability and how to best accommodate the individual to avoid further trauma.
- For example, an individual with a hearing impairment may require a sign language interpreter; however, having the interpreter in the exam room may be inappropriate. The examiner should use prudent judgment.

- Ensure the patient’s needs for privacy and confidentiality are met (e.g., during anogenital exam) if interpreter is in the room.
- An individual diagnosed with a seizure disorder may exhibit certain behaviors prior to a seizure occurring. It is important to be aware of these signs should the individual have a seizure during the examination.
- Utilize person-first language in oral and written communications. Person-first language refers to individual with differing abilities as people first. For example, instead of saying “an autistic patient,” utilize “a patient with autism.”
- If possible, the provider should find out the individual’s baseline social/emotional/behavioral functioning prior to the abuse, as well as the level of independence, skills sets and interests.
- Many individuals with disabilities know their abuser.
- Be calm, literal and concrete.

## PATIENTS WHO IDENTIFY AS LGBTQ+

- Ask patients what terms they would like to use to self-identify. Use those terms preferred by the patient.
- Be aware of your own assumptions and use of heteronormative language.
- Avoid defamatory language.
- As of 2017, 770,000 adult and 158,500 youth Texans identified as LGBTQ+ (Mallory, Brown, Russell, & Sears, 2017).
- High school students who identify as LGBTQ+ are (CDC, 2015):
  - 13% more likely to be forced to have sex,
  - 14% more likely to experience dating violence,
  - 10% more likely to experience physical dating violence,
  - 15% more likely to be bullied, and
  - 40% more likely to have seriously considered suicide.
- Ask questions about safety of patient and others (suicidality or risk for harm to others).

## RESOURCES

- Stop Bullying: [www.ItGetsBetter.org](http://www.ItGetsBetter.org);
- [www.StopBullying.gov](http://www.StopBullying.gov)
- GLAAD: [www.GLAAD.org](http://www.GLAAD.org)
- The Trevor Project [www.theTrevorProject.org](http://www.theTrevorProject.org)
- Transgender Education Network of Texas (TENT) <http://www.transtexas.org/>
- Texas Advocacy Project: <https://www.texasadvocacyproject.org/>
- <https://endsexualviolencect.org/resources/get-the-facts/lgbtq/>
- [http://www.ncdsv.org/publications\\_lgbti.html](http://www.ncdsv.org/publications_lgbti.html)
- <http://www.ibiblio.org/rcip/lgbtq.html>



## PATIENTS EXPERIENCING INTERPERSONAL VIOLENCE

- Patients who are sexually assaulted by intimate partners might also be survivors of interpersonal violence (IPV).
- **IPV Definition:** “Acts that are physically and emotionally harmful or that carry the potential to cause physical harm ... [and] may also include sexual coercion or assaults, physical intimidation, threats to kill or harm, restraint of normal activities or freedom and denial of access to resources” (National Research Council, 1996).
- Reporting to DFPS
  - Child protective services reporting is mandatory if children are involved, or exposed to IPV, regardless if they witnessed the IPV.
  - Adult protective services reporting is mandatory if elder patients are involved in IPV.
- Patients may not believe they were sexually assaulted. Ask questions in a way that allows patients to discuss unwanted sexual experiences.
- Ask non-leading, open-ended questions.
  - Regarding direct or indirect use of force that is unwanted,
  - Sexual violence via force or threat,
  - Psychological or emotional abuse:
    - Neglect,
    - Name-calling,
    - Public humiliation or threat of humiliation,
    - Financial manipulation,
    - Social isolation,
    - Controlling movement, resources and information, and
    - Control of reproductive and sexual health.

## ADULT MALES

The medical forensic sexual assault assessment with evidence collection for men and adolescent boys is different from an assessment for a female. Examiners should consider discussing that a physical response to sexual stimulation does not indicate consent.

**Barriers** that may prevent male survivors from disclosing sexual assault:

- Societal stigma related to the sexual assault of a male as largely overlooked, ignored or regarded as a joke.
- Fear of blame, disbelief or other negative reactions.
- Heterosexual men may question their sexual identity post–sexual assault.
- Fear of being judged as gay because an erection and/or ejaculation was experienced during the sexual assault, and concern this means they may become homosexual.
- Fear of embarrassment of examination in a hospital setting.
- Fear of being ridiculed, and of having their masculinity questioned when disclosing a female was forcing him into sex.
- Cultural myth that when an adult woman encourages an adolescent boy to engage in sexual activity, the boy is considered “lucky” to be having sex with an older woman.

## TREATMENT

- Immediate, gender-sensitive treatment for the male will have a positive impact and may decrease the long-term effects of the sexual assault.
- Provide access to comprehensive care:
  - Timely medical forensic care and treatment of injuries and psychological assessment, if indicated.
  - Crisis intervention.
  - Option for medical forensic sexual assault examination and evidence collection.
  - Prophylactic treatment for STDs.
  - Counseling for HIV nPEP.
- Provide referrals to the community for ongoing treatment and support for the following:
  - Crisis counseling and supportive counseling.
  - Ongoing assessment for healing of injuries.

- Ongoing documentation of injury healing.
- Repeat STD testing.

## PREGNANT PATIENTS

- Pregnant patients who are sexually assaulted by intimate partners might also be survivors of interpersonal violence.
- Possible indicators of IPV in pregnancy include a history of
  - Prior medical visits for injuries.
  - Abuse or assault.
  - Repeated visits beyond well-woman pregnancy visits.
  - Depression, substance use, anxiety and suicide attempts.
  - Unintended pregnancy, or unhappy about current pregnancy.
  - Young mother.
  - Low education level.
  - Single.
  - Delayed prenatal care or missed appointments.
  - Flat affect.
  - Poor eye contact.
  - PTSD symptoms.
- Risk factors for IPV and sexual assault in pregnancy:
  - While IPV is found across all socioeconomic status levels, it is identified at higher rates when associated with:
    - Poverty (Bohn, Tebben, & Campbell, 2004),
    - Lower education levels (Bohn et al., 2004),
    - Women of minority,
    - Joblessness,
    - Drug or alcohol abuse of mother or partner, and/or
    - Stress.
- Statewide intake (via DFPS) “cannot recommend an investigation regarding concerns for an unborn child. The child must be born alive before DFPS has jurisdiction to intervene. Exceptions that allow reports to be taken for unborn children:
  - Professional reporter (typically law enforcement, medical or casework staff) is requesting DFPS assistance, and
  - Mother is expected to deliver in the next 24-48 hours” (DFPS, 2017).

- Trauma in pregnancy: An updated systemic review (Mendez-Figueroa, Dahlke, Vrees, & Rouse, 2013). Link: [https://www.ajog.org/article/s0002-9378\(13\)00068-9/fulltext](https://www.ajog.org/article/s0002-9378(13)00068-9/fulltext)

## NATIVE AMERICAN PATIENTS

- For jurisdictional issues and direction consult with law enforcement agency who has jurisdiction.
- General Guide to Criminal Jurisdiction in Indian Country  
Link: <http://www.tribal-institute.org/lists/jurisdiction.htm>

## POLICY

- Indian Health Service (IHS) Sexual Assault Policy  
Link: [https://www.ihs.gov/ihm/index.cfm?module=dsp\\_ihm\\_pc\\_p3c29](https://www.ihs.gov/ihm/index.cfm?module=dsp_ihm_pc_p3c29)
- IHS Intimate Partner Violence Policy (as sexual assault is often a component of IPV, it relates to what you may need)  
Link: [https://www.ihs.gov/ihm/index.cfm?module=dsp\\_ihm\\_pc\\_p3c31](https://www.ihs.gov/ihm/index.cfm?module=dsp_ihm_pc_p3c31)
- IHS policy on Responding to Requests for IHS employee's testimony  
Link: [https://www.ihs.gov/ihm/index.cfm?module=dsp\\_ihm\\_pc\\_p5c27](https://www.ihs.gov/ihm/index.cfm?module=dsp_ihm_pc_p5c27)

## TRAINING

- Tribal Forensic Healthcare.org  
Link: <http://tribalforensichealthcare.site-ym.com/>
- This site provides opportunity for clinical training and education through webinars (live and archived) that include a native-specific focus.
- The IHS has funded the International Association of Forensic Nurses to deliver training related to the identification, collection and preservation of medical forensic evidence obtained during the treatment of survivors of sexual and domestic violence. These trainings enable medical professionals to acquire and maintain the knowledge, skills and competent clinical forensic practice necessary to improve the response to domestic and sexual violence in hospitals, health clinics and health stations within the Indian health system.

## OTHER RESOURCES

- National Indigenous Women's Resource Center (cultural) (2018)  
Link: <http://www.niwrc.org/>
- National protocol for sexual assault medical forensic examinations – Adult/adolescent  
Link: <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>

- National best practices for sexual assault kits; a multidisciplinary approach (download report)

Link: <https://www.nij.gov/topics/law-enforcement/investigations/sexual-assault/Pages/national-best-practices-for-sexual-assault-kits.aspx>

## DRUG-FACILITATED SEXUAL ASSAULT

### KEY POINTS

- Many substances will impair a person's memory and ability to consent to sexual intercourse.
- Sexual assault may involve voluntary or involuntary ingestion of alcohol or other substances by the patient or the perpetrator. Regardless if patients ingested the alcohol or substance voluntarily or involuntarily, their ability to consent to sexual activity may be impaired.
- Memory deficits range from vague recollection to no memory at all.
- Presenting symptoms of DFSA may include any of the following:
  - Confusion,
  - Drowsiness,
  - Nausea and/or vomiting,
  - Slurred speech,
  - Lethargy, fatigue, weakness,
  - Impaired judgment,
  - Lack of muscle coordination, and/or
  - Impaired memory or amnesia for events.
- Laboratory samples (typically blood and urine) should be collected as soon as possible and stored in a secured refrigerator for chain-of-custody transfer to law enforcement.
- **Even if negative laboratory results may indicate no substance is present, a substance may be present but not at detectable levels, or negative results may be due to the presence of a drug for which a test is not available or executed.**



## STRANGULATION

### KEY POINTS

- **Strangulation is life-threatening and requires close patient monitoring.**
- Assess all patients for strangulation. Some patients will not disclose strangulation unless directly asked.
- Ask questions such as, “Did anything happen to your neck?”
- Notify the treating physician if the patient was strangled.
- Non-fatal strangulation can occur in sexual assault and other forms of interpersonal violence.
- Depending on the force applied and length of time applied, the survivor may experience temporary to severe permanent injury, even death.
- Women are more likely to be victimized than men.
- The pediatric population may experience strangulation during sexual assault or abuse. Children should be assessed for strangulation.
- Strangulation is defined as external pressure to the neck, compressing blood vessels and air passages, and deprivation of oxygen.
  - **It may result in carotid artery dissection, stroke, seizure, respiratory failure and death.**
- Strangulation can increase risk for post-traumatic stress disorder, anxiety and depression.
- Use correct terminology in your documentation—“strangulation,” not “choking” (which is internal restriction of the trachea). However, patients might use the term “choking” (document their own words).
- Ask trauma-informed, patient-centered questions such as:
  - How often, if you know, did it occur? How long did each time last?
  - When this happened, were you able to talk? Breathe?
  - Has your voice changed since the strangulation incident? Hoarse? Scratchy? Clearing throat often? Sore?
  - What part of their body did they use to strangle you?
  - Do you remember the entire event? If the patient does not remember part of the event, or is not sure, assume they lost consciousness.

- While you were being strangled, did you lose control of your body functions (i.e., urinate or defecate)?
- Describe what you were feeling? Seeing? Hearing? Tasting?
- Describe pressure on a scale of one to ten.
- Also evaluate for signs of head trauma. Notify treating physician if signs of head trauma.
- Know the signs and symptoms of strangulation. Assess for marks and swelling of the neck, and petechiae in the sclera, roof of mouth, face, behind ears and pinna, and scalp. Ask about memory loss, extremity weakness, difficulty speaking, urination, dizziness, headaches, vomiting, ringing in the ears, voice changes and difficulty breathing.
- Describe injuries.
- Photo-document injuries, if possible.
- See the Training Institute on Strangulation Prevention (2017a, 2017b) for a documentation protocol. Link: <https://www.familyjusticecenter.org/resources/secure-digital-forensic-imaging-non-fatal-strangulation-protocol/>
- **Strangulation Protocol:**  
<https://static1.squarespace.com/static/58d05b5b8419c21896b44f04/t/58d940d659cc68fea5ca0b4/1490632953760/2017-Countywide-Strangulation-Protocol-all-documentsSM.pdf>
- **Strangulation Signs and Symptoms (adults):** <https://www.familyjusticecenter.org/wp-content/uploads/2017/12/Signs-and-Symptoms-of-Strangulation-2017.pdf>
- **Strangulation Signs and Symptoms (pediatrics):**  
<https://www.familyjusticecenter.org/wp-content/uploads/2017/11/Pediatric-Signs-and-Symptoms-of-Strangulation-2017.pdf>

## UNCONSCIOUS PATIENTS

- Sexual assault and other physical harm must be a consideration when an unconscious patient arrives at the emergency department.
- **Medical treatment must not be delayed due to forensic evidence collection.**
- Facilities may have policies regarding treatment of unconscious patients. Follow facility policy.
- Consider contacting the Risk Management Department prior to collecting a sexual assault evidence collection kit on an unconscious patient.
  - Risk management may wish to formulate a policy regarding evidence collection from unconscious patients where sexual assault is a concern.
  - Consent from family or guardian, if available, may need to be obtained prior to collecting a sexual assault evidence collection kit from an unconscious patient.
- “In the absence of a complete history, examiners should obtain the full complement of samples, assisted by the physical examination” (DoJ, 2017, p. 16).
- Make attempts to preserve evidence (do not bathe patient, place clothing separately in paper bags) and speak to patient when they are conscious.
- Ensure unused laboratory specimens are not discarded.
- If the patient is deceased, the medical examiner/coroner has jurisdiction and will collect any forensic evidence at autopsy (see Post-Mortem Considerations section, page 103). Lab specimens may need to be sent to the medical examiner’s office.

## **HUMAN TRAFFICKING**

- Human trafficking (HT), is a human rights violation and a public health issue.
- Survivors of sex trafficking can experience or witness significant violence and psychological manipulation.
- Survivors are often told by their trafficker to lie about their name, age and circumstances.
- The severe and chronic trauma suffered by survivors of sex trafficking may make it difficult for health care providers to gather a patient's history in an organized manner.
- It is important to obtain the patient's history outside of the presence of anyone who accompanied them to the exam (Greenbaum et al., 2015; Potter & Sharma, 2017).
- Children at greater risk for trafficking are children who:
  - Run away, are homeless, or "throwaway" youth.
  - Have a history of sexual abuse, physical abuse or neglect.
  - Have a history with juvenile justice or child protective services.
  - Identify as lesbian/gay/bisexual/transgender/questioning (Greenbaum et al., 2015; Macias-Konstantopoulos & Ma, 2017).
- Possible physical signs of human trafficking include (Potter & Sharma, 2017):
  - Sexually transmitted diseases,
  - Anogenital trauma,
  - Unwanted and unplanned pregnancies,
  - Poor nutrition,
  - Drug addiction, and
  - Tattoos or brands.

### **MANDATORY REPORTING FOR SUSPECTED HUMAN TRAFFICKING**

- Texas law (Family Code §261.101 and Human Resources Code §48.051) mandates that anyone who suspects a child, a person 65 years or older, or an adult with disabilities is being abused, neglected or exploited must report it to law enforcement or DFPS. A health care professional cannot delegate this responsibility to another individual.
- A person who reports abuse in good faith is immune from civil or criminal liability. DFPS keeps the name of the person making the report confidential. Anyone who fails to report suspected abuse can be held liable for a misdemeanor or felony.

- Call Texas Abuse Hotline toll-free 24 hours a day, 7 days a week, nationwide, or report with the secure website and get a response within 24 hours:
  - Phone: 1-800-252-5400
  - Online: Texas Abuse Hotline: <https://www.txabusehotline.org/Login/Default.aspx>

### **POSSIBLE QUESTIONS TO ASK PATIENTS WHO MAY BE TRAFFICKED**

- When health care providers suspect patients may be sex trafficked, they should consider asking the patient questions about:
  - Living conditions;
  - Ability to come and go as they please;
  - Personal safety;
  - Freedom to talk to whomever they please;
  - Employment status;
  - Whether they are forced, or coerced, to do anything including sexual acts, in order to be safe, have shelter, or to have basic needs met;
  - Whether they are forced to ask someone for basic human necessities (Potter & Sharma, 2017).

### **TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES ROLE IN SEX TRAFFICKING OF CHILDREN/YOUTH**

- “The Texas Department of Family and Protective Services takes all forms of maltreatment seriously; however, there is a recognition that victims of human trafficking require different approaches to investigations and service provision than required by other forms of maltreatment.
- Therefore, in June 2017, DFPS established the Human Trafficking and Child Exploitation team to establish a systemic approach to human trafficking.
- DFPS will investigate allegations of sex trafficking when the alleged perpetrator is a family member or an adult living in the child’s home, or when a child in DFPS conservatorship becomes a victim of sex trafficking” (DFPS, 2018).

## **Responsibilities of the DFPS Human Trafficking and Child Exploitation Team**

- “The mission of the Human Trafficking and Child Exploitation Team encompasses the DFPS mission through programming that is patient-informed, trauma responsive, victim-centered and evidence based where possible.
- The vision of the DFPS Human Trafficking and Child Exploitation Team is to:
  - Provide Human Trafficking training opportunities to all department staff.
  - Have consistent department representation wherever communities are gathering to discuss Human Trafficking and explore opportunities to bring people together where the conversation may not be occurring.
  - Expand the existing continuum of care services for sex trafficking victims.
  - Establish formal relationships with stakeholders who are responding to the issue of Human Trafficking” (DFPS, 2018).

## **COMMERCIAL SEXUAL EXPLOITATION—IDENTIFICATION TOOL (CSE-IT)**

- CSE-IT helps professionals identify potential survivors of commercial sex trafficking for youth 10 years or older.
- For more information on Westcoast Children’s Clinic (2016) or the CSE-IT, visit [www.westcoastcc.org](http://www.westcoastcc.org).

## **NATIONAL HUMAN TRAFFICKING HOTLINE**

- (888) 373-7888
- <https://humantraffickinghotline.org/about-us/what-we-do>
- Toll-free 24-hour hotline:
  - Assists caller to connect to reporting agencies, if necessary.
  - Takes tips about potential human trafficking (sex and/or labor trafficking) situations.
  - Connects caller to referrals.

## POST-MORTEM CONSIDERATIONS

- **In Texas, the medical examiner or justice of the peace has jurisdiction over deceased individuals where the deaths are not natural, or cause of death is unknown** (Texas Code of Criminal Procedure, Chapter 49).
- Post-mortem sexual assault examinations and evidence collection should be completed by forensically trained health care professionals (DoJ, 2017). Do not collect evidence from deceased individuals without direction from medical examiner or justice of the peace.
- Timing limitations are irrelevant for deceased victims so samples should always be collected if sexual assault is considered (DoJ, 2017).
- All possible samples should be collected in the deceased victim (DoJ, 2017).

## DISCHARGE, FOLLOW-UP AND ONGOING PATIENT CARE

### MEDICAL CARE KEY POINTS

1. Sexual assault is a health care issue and has potential health consequences, including:
  - a. Risk for sexually transmitted diseases (STD),
  - b. Unintended pregnancy,
  - c. Chronic pain,
  - d. Somatic disorders,
  - e. Behavioral changes that impact physical health such as substance use disorder, sexual dysfunction, and
  - f. Suicide.
2. It is critical to refer patients for follow-up care, including assessment of injuries from the assault, STD testing, hepatitis B and/or HPV initial or subsequent vaccinations, and monitoring for HIV nPEP side effects.
3. Links to national protocols for adults and pediatrics:
  - a. Adolescent/Adult: <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>
  - b. Pediatric:  
<https://static1.squarespace.com/static/58d05b5b8419c21896b44f04/t/58d940d659cc68feaa5ca0b4/1490632953760/2017-Countywide-Strangulation-Protocol-all-documentsSM.pdf>
4. The biological evidence preservation handbook: Best practices for evidence handlers:  
<https://nvlpubs.nist.gov/nistpubs/ir/2013/NIST.IR.7928.pdf>
5. The Centers for Disease Control and Prevention (CDC) recommends follow-up appointments:
  - a. Within 1–2 weeks post assault for STD testing if patients did not receive STD prophylaxis.
  - b. 1–2 months for patients who received STD prophylaxis.
  - c. 6 weeks, 3 months and 6 months for HIV testing.
6. Patients should repeat a pregnancy test at 3 weeks following the exam if they have not had any bleeding since the sexual assault examination, regardless of whether they received pregnancy prophylaxis.
7. Providers should strongly encourage appropriate follow-up medical care after the initial sexual assault assessment.



8. Seek to reduce barriers to follow-up medical care by offering examinations in your program and/or contacting patients (with their consent) within 2–3 days following the exam to remind them of follow-up care needs and answer their medical questions.

### **ADVOCACY KEY POINTS**

- The rape crisis advocate is separate and distinct from the law enforcement or judicial victim advocate.
- The role of an advocate extends beyond the emergency department.
- The advocate connects patients who have been sexually assaulted and their non-offending support persons to resources.
- They provide options for comprehensive services available in the survivors' surrounding community and serve as a link to local systems a patient may encounter.
- This assistance is critical to the ongoing care and healing process.
- To locate the nearest rape crisis center, call the Rape, Abuse, Incest National Network (RAINN) hotline at 1-800-656-HOPE or utilize the crisis center locator via the Texas Association Against Sexual Assault website: [www.taasa.org](http://www.taasa.org).

### **COUNSELING KEY POINTS**

- Sexual assault is a traumatic event that can lead to depression, anxiety, substance use disorder, suicidal thoughts and post-traumatic stress disorder (PTSD).
- It is critical to refer patients to resources that specialize in sexual assault counseling.
- Provide verbal and written information about 24-hour sexual assault advocacy resources.
- Consider contacting patients, with their written permission, 2–3 days following the initial examination to assess their mental health and remind them of advocacy services.
- The presence of a trained sexual assault advocate at the time of the forensic medical assessment may make it easier for patients to contact advocacy services.

**TEXAS DEPARTMENT OF HEALTH AND HUMAN SERVICES  
INFORMATION SHEET FOR SEXUAL ASSAULT PATIENTS**

- Health care providers are mandated to give patients the Information Sheet for Sexual Assault Patients.
- The information sheet is available in Spanish and English at:  
<http://www.dshs.texas.gov/facilities/sexual-assault-information.aspx>
- If a facility is not “SAFE-ready,” health care providers are required to give sexual assault patients the following form (Texas Health and Human Services, 2018).
  - Available in Spanish and English (at the bottom of the web page):  
<http://www.dshs.texas.gov/facilities/sexual-assault-information.aspx>

**Appendix A**  
**TEXAS CRIME VICTIMS' BILL OF RIGHTS**

Link: <http://www.statutes.legis.state.tx.us/Docs/CR/htm/CR.56.htm#56.02>

Art. 56.02. CRIME VICTIMS' RIGHTS.

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

- (1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;
- (2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;
- (3) the right, if requested, to be informed:
  - (A) by the attorney representing the state of relevant court proceedings, including appellate proceedings, and to be informed if those proceedings have been canceled or rescheduled prior to the event; and
  - (B) by an appellate court of decisions of the court, after the decisions are entered but before the decisions are made public;
- (4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the procedures in criminal investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;
- (5) the right to provide pertinent information to a probation department conducting a presentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender;
- (6) the right to receive information regarding compensation to victims of crime as provided by Subchapter B, including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter, the payment for a medical examination under Article 56.06 for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;
- (7) the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning a defendant in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime subject to this subchapter, and to be notified, if requested, of the defendant's release;
- (8) the right to be provided with a waiting area, separate or secure from other witnesses, including the offender and relatives of the offender, before testifying in any proceeding concerning the offender; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the offender and the offender's relatives and witnesses, before and during court proceedings;

- (9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;
- (10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;
- (11) the right to request victim-offender mediation coordinated by the victim services division of the Texas Department of Criminal Justice;
- (12) the right to be informed of the uses of a victim impact statement and the statement's purpose in the criminal justice system, to complete the victim impact statement, and to have the victim impact statement considered:

- (A) by the attorney representing the state and the judge before sentencing or before a plea bargain agreement is accepted; and

- (B) by the Board of Pardons and Paroles before an inmate is released on parole;

- (13) for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence, as defined by Section 71.004, Family Code, the right to have the court consider the impact on the victim of a continuance requested by the defendant; if requested by the attorney representing the state or by counsel for the defendant, the court shall state on the record the reason for granting or denying the continuance; and

- (14) if the offense is a capital felony, the right to:

- (A) receive by mail from the court a written explanation of defense-initiated victim outreach if the court has authorized expenditures for a defense-initiated victim outreach specialist;

- (B) not be contacted by the victim outreach specialist unless the victim, guardian, or relative has consented to the contact by providing a written notice to the court; and

- (C) designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person.

(b) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

(c) The office of the attorney representing the state, and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by this article and Article 56.021 and, on request, an explanation of those rights.

(d) A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article or Article 56.021. The failure or inability of any person to provide a right or service enumerated in this article or Article 56.021 may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

Added by Acts 1985, 69th Leg., ch. 588, Sec. 1, eff. Sept. 1, 1985. Subsec. (a) amended by Acts 1987, 70th Leg., ch. 433, Sec. 1, eff. Aug. 31, 1987; Subsecs. (a), (c) amended by Acts 1987, 70th Leg., ch. 929, Sec. 1, eff. Sept. 1, 1987; Subsec. (c) amended by Acts 1989, 71st Leg., ch. 996, Sec. 1, eff. Sept. 1, 1989; Subsecs. (a), (d) amended by Acts 1991, 72nd Leg., ch. 202, Sec. 3, eff. Sept. 1, 1991; Subsec. (a) amended by Acts 1993, 73rd Leg., ch. 811, Sec. 3, eff. Sept. 1, 1993; Subsec. (a)(6) amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(108), eff. Sept. 1, 1995; Subsecs. (a), (b) amended by Acts 2001, 77th Leg., ch. 1034, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 498 (H.B. 544), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.21, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 664 (H.B. 2236), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1140 (H.B. 2626), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 651 (H.B. 899), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1345 (S.B. 1192), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 4.002, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 4.003, eff. September 1, 2015.

<http://www.statutes.legis.state.tx.us/Docs/CR/htm/CR.56.htm#56.021>

The following article was amended by the 86th Legislature. Pending publication of the current statutes, see H.B. [4173](#), S.B. [20](#), S.B. [194](#), S.B. [1801](#) and H.B. [616](#), 86th Legislature, Regular Session, for amendments affecting the following section.

Art. 56.021. RIGHTS OF VICTIM OF SEXUAL ASSAULT OR ABUSE, INDECENT ASSAULT, STALKING, OR TRAFFICKING.

(a) In addition to the rights enumerated in Article 56.02, if the offense is a sexual assault, the victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) if requested, the right to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed;

(2) if requested, the right to a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense;

(3) if requested, the right to be notified:

(A) at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense;

(B) at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database; and

(C) of the results of the comparison described by Paragraph (B), unless disclosing the results would interfere with the investigation or prosecution of the offense, in

which event the victim, guardian, or relative shall be informed of the estimated date on which those results are expected to be disclosed;

(4) if requested, the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection;

(5) for the victim of the offense, testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(6) to the extent provided by Articles 56.06 and 56.065, for the victim of the offense, the right to a forensic medical examination if, within 120 hours of the offense, the offense is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility.

(b) A victim, guardian, or relative who requests to be notified under Subsection (a)(3) must provide a current address and phone number to the attorney representing the state and the law enforcement agency that is investigating the offense. The victim, guardian, or relative must inform the attorney representing the state and the law enforcement agency of any change in the address or phone number.

(c) A victim, guardian, or relative may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under Subsection (a)(3).

(d) This subsection applies only to a victim of an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012, 22.021, 42.072, or 43.05, Penal Code. In addition to the rights enumerated in Article 56.02 and, if applicable, Subsection (a) of this article, a victim described by this subsection or a parent or guardian of the victim is entitled to the following rights within the criminal justice system:

(1) the right to request that the attorney representing the state, subject to the Texas Disciplinary Rules of Professional Conduct, file an application for a protective order under Article 7A.01 on behalf of the victim;

(2) the right to be informed:

(A) that the victim or the victim's parent or guardian, as applicable, may file an application for a protective order under Article 7A.01;

(B) of the court in which the application for a protective order may be filed; and

(C) that, on request of the victim or of the victim's parent or guardian, as applicable, and subject to the Texas Disciplinary Rules of Professional Conduct, the attorney representing the state may file the application for a protective order;

(3) if the victim or the victim's parent or guardian, as applicable, is present when the defendant is convicted or placed on deferred adjudication community supervision, the right to be given by the court the information described by Subdivision (2) and, if the court has jurisdiction over applications for protective orders that are filed under Article 7A.01, the right to file an application for a protective order immediately following the defendant's conviction or placement on deferred adjudication community supervision; and

(4) if the victim or the victim's parent or guardian, as applicable, is not present when the defendant is convicted or placed on deferred adjudication community supervision, the right to be given by the attorney representing the state the information described by Subdivision (2).

- e) A victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, is entitled to be informed that the victim may petition for an order of nondisclosure of criminal history record information under Section 411.0728, Government Code, if the victim:
- (1) has been convicted of or placed on deferred adjudication community supervision for an offense described by Subsection (a)(1) of that section; and
  - (2) committed that offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1345 (S.B. 1192), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1032 (H.B. 1447), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1032 (H.B. 1447), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1153 (S.B. 630), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1153 (S.B. 630), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 5.003, eff. September 1, 2017.

Amended 2019, 86<sup>th</sup> Leg. R.S. (S.B. 20), eff. September 1, 2019.

Amended 2019, 86<sup>th</sup> Leg. R.S. (S.B. 194), eff. September 1, 2019.

Amended 2019, 86<sup>th</sup> Leg. R.S. (S.B. 1801), eff. September 1, 2019.

Amended 2019, 86<sup>th</sup> Leg. R.S. (H.B. 616), eff. September 1, 2019.

**Appendix B**  
**CRIME VICTIMS' COMPENSATION**

- Crime Victims' Compensation (CVC) is a state function.
- Website: <https://www.texasattorneygeneral.gov/cvs/crime-victims-compensation>
- Email: [crimevictims@oag.texas.gov](mailto:crimevictims@oag.texas.gov)
- Telephone: (800) 983-9933 or (512) 936-1200 (in Austin).



## Appendix C

### NURSING CONCERNS FOR PATIENTS WHO REPORT SEXUAL ASSAULT

#### Nursing Concerns for Sexual Assault

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##### Concerns for:

- Anxiety
- Impaired comfort
- Ineffective coping
- Compromised family coping
- Interrupted family processes
- Decisional conflict
- Fatigue
- Fear
- Hopelessness
- Risk for compromised human dignity
- Disturbed personal identity
- Insomnia
- Deficient knowledge
- Impaired memory
- Moral distress
- Nausea
- Imbalanced nutrition
- Acute pain
- Powerlessness
- Potential for pregnancy
- Ineffective relationship
- Impaired religiosity
- Impaired individual resilience
- Ineffective role performance
- Potential for sexually transmitted infections
- Rape trauma syndrome
- Situational low self-esteem
- Self-mutilation
- Self-neglect
- Sexual dysfunction
- Ineffective sexuality pattern
- Impaired skin integrity
- Disturbed sleep pattern
- Impaired social interaction
- Social isolation
- Spiritual distress
- Stress overload
- Risk for suicide
- Impaired tissue integrity
- Impaired urinary elimination
- Risk for other-directed violence

Source: Ackley, B. J., & Ludwig, G. B. (2014). *Nursing diagnosis handbook (10<sup>th</sup> Ed.)*. Maryland Heights, MO: Mosby-Elsevier.

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