



**West Virginia Foundation for  
Rape Information and Services, Inc.**

## **WV PROTOCOL MEDICAL RESPONSE TO SEXUAL ASSAULT**

In WV, all victims of sexual assault should have access to hospitals with qualified healthcare providers who can conduct medical forensic exams for adult, adolescent, and pediatric individuals reporting sexual assault. A physical examination should be performed in all sexual assault cases, regardless of the length of time that may have elapsed between the time of the sexual assault and the examination. Medical issues and treatment always take priority over the collection of forensic evidence.

### **I. Recommendations for a Standard of Care for Victims of Sexual Assault**

All patients who present to hospitals with reports of sexual assault must be thoroughly evaluated. Treating injuries alone is not sufficient in these cases. In addition to physical injuries and trauma caused by a sexual assault, the emotional impact may be the most significant injury and should be a concern of healthcare providers attending to the needs of these patients.

Healthcare providers must be trained and clinically prepared to do the following:

- Consider all patients reporting sexual assault as ESI Acuity Level 2.
- Provide a private waiting area separate from the emergency department waiting area for the patient to ensure the patient's privacy
- Respond to acute injury, trauma care, and safety needs of patients before collecting evidence.
- Provide expedited consultation and attention to the patient.
- Establish procedures to obtain the patient's consent for each medical and evidentiary procedure. Consent for evidence collection can be withdrawn at any time.
- Inform the patient that obtaining written consent for release of evidence means that the evidence collected becomes part of the criminal investigation.
- Explain the importance of obtaining immediate support and resources from the local rape crisis center advocate.
- Conduct a medical forensic examination using the WV Sexual Assault Evidence Collection Kit (SAECK) when a victim presents to the emergency room within 96 hours (4 days) of the sexual assault
- Adapt the exam process to address the unique needs and circumstances of each patient
- Explain each step of the medical forensic exam to the patient and the importance of the collection of forensic samples.
- Document findings using the sexual assault information report forms
- Discuss reporting options for law enforcement
- Coordinate crisis intervention and support for the patient reporting sexual assault
- Provide STI prophylaxis and preventive care, pregnancy assessment, and discuss treatment options in adult/adolescent cases
- Assess for testing needs for sexually transmitted infections (STIs), if a pediatric case
- Set guidelines for making referrals for follow-up medical and mental health services.
- Explain that the Forensic Medical Examination Fund will pay for the cost of the forensic portion of the examination, whether or not a report is made to law enforcement.
- Explain that any medical treatment or testing performed will be billed and is not covered by the Forensic Medical Examination Fund.
- Maintain proper chain-of-custody and evidence integrity

- Provide photo documentation that includes any injuries, anatomy involved in the offense, or any visible evidence on the victim's body
- Provide education and written information regarding evidence-based guidelines for evidence collection, accepted medical procedures or tests, and medication provided to treat or prevent STIs
- Mail a reported SAECK directly to the WVSP Forensic Laboratory using the FEDEX air bill label found in the kit within 30 days of collection, or as soon thereafter as practicable
- Mail a non-reported SAECK to Marshall University Forensic Science Center and inform the victim that the kit shall be held for twenty (20) years

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**A medical exam is for health purposes, while a medical forensic exam addresses a victim's health concerns and forensic evidence collection/preservation.**

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### **The Role of the SANE or Qualified Healthcare Provider**

A medical forensic exam addresses a victim's health concerns and forensic evidence collection/preservation. The role of the SANE or the qualified healthcare provider is to do the following:

- Obtain a medical history
- Examine the patient thoroughly from head to toe
- Describe the findings objectively
- Document injuries and describe the findings, noting facts such as depth, shape and size, color, and location
- Collect necessary forensic evidence
- Treat each patient on an individual basis

Each step of the medical process should be carefully explained, and these patients should be encouraged to ask questions to make informed decisions about the care they are receiving. In all cases, SANEs/qualified healthcare providers should provide support, resources, and information as a key part of trauma-informed care. This kind of response by healthcare providers can positively affect the long-term recovery of victims (Campbell, 2004).

### **Training Requirements for SANEs and Qualified Healthcare Providers**

According to **Legislative Rule §149-11** (Effective date for compliance 1-1-26), hospitals providing medical forensic examinations must follow these training requirements for SANEs/qualified healthcare providers conducting medical forensic examinations.

In West Virginia, registered nurses may perform medical forensic exams independently if they meet training standards set forth by the WV SAFE Commission. This includes completing a **40-hour didactic SANE course** for the designated population (adult/adolescent or pediatric/adolescent) and **completing required clinical components**. Upon successful completion of all training requirements, registered nurses must complete an application to practice as a SANE in West Virginia. If all training components are successfully met, the registered nurse will be issued a certificate to practice as a SANE in WV for the age group they are applying for.

Registered nurses who have completed a WV SAFE Commission-approved **modified training** course for the sexual assault forensic exam may perform a medical forensic exam under the direction of an approved TeleSANE.

Physicians, Physician Assistants, and Advanced Practice Registered Nurses may perform medical forensic exams within their scope of practice and with the availability of a TeleSANE.

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**It is required that TeleSANEs have completed all the qualifying requirements to practice as an Adult/Adolescent Sexual Assault Nurse Examiner (SANE-A) and/or a Pediatric/Adolescent Sexual Assault Nurse Examiner (SANE-P), through the IAFN certification process.**

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## **SANE Program Equipment Needs**

It is recommended that the following equipment and supplies be readily available at hospitals where medical forensic exams are conducted.

- Have available a standard exam room, equipment and supplies for physical assessment and evidentiary pelvic exam (*The needs of patients with disabilities must be taken into account to ensure barrier-free access to medical services.*)
- Provide comfort supplies for patients (*Suggested items: clean and ideally new replacement clothing, toiletries, food and drink.*)
- Use the WVSP Sexual Assault Evidence Collection Kits (SAECKs) available on site for the medical forensic exams
- Use a camera and related supplies (memory card) for forensic photography during the examinations
- Have available testing and treatment supplies needed to evaluate and care for the patient medically that are not part of the kit
- Use an alternate light source (*Using the most up-to-date technology possible can aid in examining patients' bodies, hair and clothing. It is used to scan for evidence such as dried or moist secretions, fluorescent fibers not visible in ambient light and subtle injuries.*)
- Provide a locked and secure storage cabinet in a room with limited access if the kit cannot be mailed immediately. (*This ensures chain of custody.*)

## **Intake**

A sexual assault victim (*hereinafter referred to as the patient*) should be considered a priority patient. A private location within the hospital should be utilized for the preliminary consultation with the patient. An Emergency Severity Index (ESI) score of two should be assigned to acute sexual assault patients. Upon arrival at the hospital, the sexual assault patient should be placed in a private area with a goal time of being seen in 30 minutes. The hospital should immediately implement the protocol for responding to a patient reporting sexual assault.

WV hospitals should develop and use code words to avoid inappropriate references to sexual assault cases and to ensure the privacy of the patient. This eliminates the embarrassment to the patient and/or the family of being identified in the emergency department as the "rape" or "sexual assault" patient. Other methods can be devised to avoid inappropriate references to sexual assault cases, and hospitals are encouraged to develop sensitive code plans to ensure privacy.

## **Advocacy Services**

In cases of sexual assault, the hospital shall immediately call a victim advocate from the nearest rape crisis center when an individual who has been sexually assaulted presents to a hospital. The importance of having a victim advocate from the local rape crisis center available for a sexual assault patient cannot be over-emphasized. In sexual assault cases, patients are usually more cooperative and better able to respond to procedures when they feel supported, believed and are safe. Advocates are specially trained to provide patients with free, confidential, non-judgmental support, information and resources so patients can make informed decisions about their care following a sexual assault. When consent has been given, advocates stay with the patient in the examining room and throughout their time at the hospital.

Advocacy services offered by the rape crisis center include:

- Free, confidential crisis intervention and emotional support to the patient/family/friends
- Education about the medical forensic examination
- Help in securing payment for expenses incurred from the assault through the WV Crime Victims Compensation Fund
- Help and support through the legal process
- Ongoing counseling and referral to support groups

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**If the patient decides not to accept advocacy services, the SANE/qualified healthcare provider should provide contact information for the local rape crisis center.**

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## Informed Consent for Examination

It is standard medical practice to obtain a patient's verbal and written consent before conducting a medical forensic examination, administering any treatment, collecting evidence, and releasing the kit to law enforcement.

Informed consent should be an ongoing process that involves more than obtaining a signature on a form. Even after written consent is obtained, the patient should always have the right to decline any tests or to decline to answer any questions. The patient may also decline further interaction with the SANE /qualified healthcare provider, the advocate, and/or law enforcement. Having a sense of control is an important part of the healing process for the patient.

Hospitals should follow their usual procedures for obtaining consent for all tests and treatment necessary outside the exam, including extraordinary cases (e.g., for severely injured or incoherent patients).

### The following types of informed consent are required for a medical forensic examination:

- Consent to perform an examination and collect forensic evidence
- Consent to provide treatment for STI and pregnancy prophylaxis
- Consent to take photographs
- Written authorization to release information and other items, such as a sexual assault evidence kit and clothing to law enforcement

## Related Medical Concerns of Victims

The risk of pregnancy, sexually transmitted infections and HIV/AIDs from a sexual assault is low, but these are major concerns for victims. SANEs/qualified healthcare providers need to do the following:

- Inform the victim of the risk of pregnancy and sexually transmitted infections, testing for HIV/AIDs, and prophylactic steps to avoid pregnancy and infection(s)
- Provide testing/treatment/prophylactic care as needed
- Provide referral for related follow-up health services
- Provide written information about STIs/HIV testing/treatment upon discharge

## Incoherent/Unconscious Patient or Drug/Alcohol-Facilitated Sexual Assault (DFSA/AFSA)

It is possible that there could be incidents where the patient is unable to give formal informed consent and there is a high degree of suspicion that drugs and/or alcohol were used to incapacitate the patient.

Because timely evidence collection is critical in DFSA cases, it is recommended that medical facilities address how to handle these situations in their policies and procedures. The following are a few possible consent-related options should this situation arise:

- Obtain consent from the patient's legal spouse, parent(s) or legal guardian
- Maintain evidentiary integrity (*do not bathe, destroy clothing, etc.*) until the patient regains consciousness and can give informed consent
- If the patient regains capacity within the timeframe that evidence can still be collected, wait until the patient is able to provide consent

## Individuals in the Exam Room with the Patient

Every effort should be made to limit the number of people in the room during the medical forensic examination. If a patient requests the presence of a close friend or family member, these requests should be honored, if possible. If the patient consents, the rape crisis center advocate should be permitted to remain in the exam room throughout the medical forensic exam. **There is no medical or legal reason for law enforcement, male or female, to be present during the medical forensic examination.**

Subjecting the patient to the observation of law enforcement during the exam is an invasion of the patient's privacy and does not follow "best practice" guidelines. However, if the patient is incarcerated, a correctional officer will likely be required to stay in the room. In this instance, provide privacy to the patient by positioning or having the patient behind a curtain.

## II. West Virginia Sexual Assault Evidence Collection Kit (SAECK)

Every hospital in West Virginia performing medical forensic examinations **must** use the West Virginia State Police (WVSP) Sexual Assault Evidence Collection Kit (SAECK). SAECKs are provided by the West Virginia State Police Forensic Laboratory at no cost to WV hospitals.

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**Ordering kits must be done through the WV SAECK Information System at**

**<https://apps.wv.gov/DJCS/SAECK/Login.aspx>**

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Each hospital should have a designated user for the WV SAECK Informational system. This person is responsible for entering the kit tracking number disposition information into the SAECK system. The kit tracking number is entered when a kit is:

- Used for training
- Collected and submitted to the WVSP Forensic Laboratory
- Mailed to Marshall University Forensic Science Center as a non-report
- Destroyed (**must** provide a reason for the kit's destruction)

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**For questions or information about the WV SAECK, contact the WV State Police Forensic Laboratory by email at [biology@wvsp.gov](mailto:biology@wvsp.gov) or by calling 304-746-2412.**

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### **Time Guidelines for Using the WVSP Sexual Assault Evidence Collection Kit (SAECK)**

The sexual assault evidence collection kit (SAECK), also referred to as the kit, is designed to assist the SANE/qualified healthcare provider in the collection and preservation of the evidentiary specimens collected from a victim of sexual assault.

Prompt examination after a sexual assault helps to quickly identify a victim's medical needs and concerns. The less time between the assault and the medical forensic exam, the more likely that evidence will be there to be collected.

The use of the WV Sexual Assault Evidence Collection Kit (SAECK) will be determined by these time frame guidelines.

- **If the sexual assault occurred within 96 hours of the examination, a kit should be used.**
- **If it is determined that the sexual assault took place more than 96 hours before the examination, the use of a kit may not be necessary.**
- **If the time since the assault is more than 96 hours, evidence should still be gathered by documenting findings made during the medical examination (such as bruises or lacerations), by taking photographs, and by recording the patient's statements about the assault.**

DNA evidence in the form of saliva, blood, skin tissue, hair, and semen can be left on the patient's body or at the crime scene. Saliva, which contains valuable DNA, may be found on areas of the body where the patient was kissed, licked, or bitten. The patient's clothes, especially undergarments that were worn during and/or after the assault, should be collected for evidentiary purposes.

**In all cases, the innermost garment touching the genitals at the time of the exam should be collected, unless the patient declines. In addition, if the patient scratched the suspect, swabs from under the patient's fingernails or nail clippings should be collected.**

SANEs/qualified healthcare providers are encouraged to supplement the kit's collection materials when circumstances warrant. A detailed instruction guide, outlining the basic standards recommended for ensuring comprehensive and culturally sensitive care, is provided in the kit.



### III. WV Sexual Assault Information Report Forms

Many of the evidence collection procedures in the WV SAECK apply equally to adult, adolescent and pediatric patients of sexual assault/sexual abuse. Specific directions for conducting a medical forensic examination for pediatric patients has been included on the sexual assault information report form provided in the kit. The pediatric sexual assault information forms should be used in the collection of forensic samples for children under the age of 14.

Information collection is important for the investigation of the sexual assault, collection of the evidence, and the analysis of the evidence. All pages of the requested information on the sexual assault information report forms, which are in triplicate, must be completed. It is extremely important that the third sheet is legible.

- The white copies of the report forms stay at the hospital. These report forms **SHOULD NOT** go to Medical Records. Best practice is to store them in a locked and secure file with limited access at the hospital.
- If hospital policy indicates the storage of the SAECK paperwork will be Medical Records, the SAECK paperwork should be placed in a manila envelope and sealed with an evidence label and signed with the SANE/qualified healthcare provider's initials across the label to ensure chain of custody and patient confidentiality.
- The pink copies of the report forms **MUST** be given to law enforcement unless it is a Non-Report Kit. In cases that are not reported to law enforcement, the pink copies of the forms are placed in the envelope on the bottom of the kit box, and the envelope is sealed with an evidence label and signed with the SANE/qualified healthcare provider's initials across the label.
- The yellow copies of the report forms are for the WVSP Forensic Crime Laboratory and **MUST** be placed in the envelope on the back of the kit to go to the lab. The envelope is then sealed with an evidence label and signed with the SANE/qualified healthcare provider's initials across the label to ensure chain of custody and patient confidentiality. **The yellow copies should never be sealed inside the kit box.**

When completing documentation for the SAECK sexual assault information form, the SANE or qualified healthcare provider must remember to:

- Write legibly and in ink
- Complete all of the sexual assault evidence collection kit (SAECK) paperwork. Do not skip sections. If the area is not applicable or not assessed, provide the documentation
- Document the exam date and time
- Obtain a thorough medical history
- Record verbatim the exact statements given by patients
- Do not paraphrase or clean up language
- Put statements provided by patients in quotation marks
- Use terms like "reported" or "stated"
- Avoid using words like "alleged," "probable," or "possible"
- Avoid opinions, as well as value words such as "normal," "satisfactory," "negative," or "positive"
- Make sure all copies (10 pages in triplicate) of the sexual assault information forms are legible
  - If the yellow or pink copies are unable to be read, make copies of the white forms to send to the crime lab and give to law enforcement.
- Sign/Initial and date all forms

A thorough, legible and precisely written record with accompanying body diagrams is one of the strongest supportive documents of corroborating evidence to the patient's physical and emotional state. The importance of care and precision in writing such records is essential. What is written or not written may have tremendous legal implications. Documentation from the SANE/qualified healthcare provider is used by law enforcement and the prosecutor in investigating and legal proceedings.

Failure to accurately document the patient's report or errors in documentation can negatively impact the legal

outcomes of a case. In addition, the paper documentation will be relied upon in a court case to provide the details of the medical forensic exam. It is imperative that the report is read and that their writing is legible, as this may be the only written record the provider has to rely upon in testimony.

## Medical Forensic Examination

The following information should be routinely collected and documented as part of the medical forensic examination process and documented in the sexual assault information report form.

### Date and Time of Sexual Assault/Date and Time of Collection

It is essential to know the period of time that has elapsed between the sexual assault and the collection of evidence. The focus of evidence collection will be directed by the time interval since the sexual assault. West Virginia uses a **96 hour** time frame for the collection of forensic evidence. When possible, it is important to note the approximate time of the assault.

### History of Sexual Assault

An accurate description of the sexual assault is crucial to the proper collection, detection, and analysis of physical evidence. This includes the discovery of attempted oral, anal, and vaginal penetration of the patient, oral contact by the perpetrator(s), ejaculation (if known by the patient) and penetration digitally or with foreign object(s).

Analytical findings that corroborate the patient's account will support the patient's testimony in court. Drugs may have been used to subdue the patient, or the patient may have been unconscious. This information is relevant to the analysis of the forensic evidence, because it can affect the interpretation of findings.

### Gender and Number of Suspect(s)

Forensic scientists seek evidence of cross-transfer of trace materials among the patient, perpetrator(s), and scene of the crime. These trace materials include foreign hairs and the deposit of fluids from the perpetrator(s) to the patient. The gender and number of perpetrator(s) may offer guidance to the types and the amounts of foreign materials that might be found on the patient's body and clothing.

### Actions of Patient after Sexual Assault

The quality of evidence is critically affected both physically and chemically by actions taken by the patient and by the passage of time. It is important to know what, if any, activities were performed prior to the medical forensic examination, including bathing, urination, brushing teeth and/or changing clothes, any which could help explain the absence of secretions or foreign materials.

The presence of evidence such as foreign hairs, fibers, plant material or other microscopic debris deposited on the patient by the perpetrator(s) or transferred to the patient at the crime scene may also be affected by the length of time that elapses between the assault and the collection of evidence. For example, douching would have an obvious chemical effect on the quantity and quality of semen remaining in the vagina. Failure to explain the circumstances under which semen could have been destroyed might jeopardize criminal prosecution, if apparent contradictions cannot be accounted for in court.

### Last Consensual Sex

When analyzing specimens in sex-related crimes, forensic analysts sometimes find genetic markers that are inconsistent with the mixture from the patient and the suspect. A mixture of DNA from a suspect and the patient's pre-assault or post-assault sexual partner could lead to evidence which, if unexplained, could conflict with the patient's account of the assault.

It is common practice to ask patients if they engaged in voluntary sexual intercourse within several days before or after the assault. If so, patients are then asked the date of the contact to help determine the possible significance of DNA remaining from such activity. The date of the last voluntary coitus is significant **only** to the extent that saliva and blood samples from the individual involved can be made available for comparison, if needed. **The actual identity of any consensual sexual partners should not be sought at the time of the initial examination.** To interpret the results correctly and to avoid excluding the suspect or falsely including an innocent party, correct interpretation of analytical results requires knowing all the persons who could have

contributed to the sample.

### **Contraceptive Preparations/Menstruation Information**

Certain contraceptive preparations can interfere with the accurate interpretation of the preliminary chemical test, frequently used in the analysis of potential seminal stains. In addition, contraceptive foams, creams, or sponges can destroy spermatozoa. If a lubricant was used, it should be noted.

Knowing whether or not a condom was used may help explain the absence of semen or its components (e.g., sperm and seminal fluid). Tampons and sanitary napkins can absorb all of the suspect's semen, as well as any menstrual blood present. Additionally, the presence of blood on the vaginal swab could either be from trauma or as a result of menstruation.

### **Gynecological History Information**

The patient's menstrual history, pregnancy history, including evaluation of possible current pregnancy, and contraceptive history should be evaluated and recorded. If the patient is at risk for pregnancy, a urine pregnancy test should be done to establish a baseline for possible pre-existing pregnancy and ability to provide emergency contraception.

### **Physical Examination**

Document all details of trauma, such as bruises, abrasions, lacerations, bite marks, and blood, paying particular attention to the genital and anal areas of both male and female patients. **Common sites for trauma include: the breasts, the upper portion of the inner thighs, marks on the arms, wrists, or legs from being grabbed or restrained, injuries or soreness to the scalp area, back or buttocks, which may result from being thrown against an object or onto the ground and bruising behind the ears, if the patient was orally assaulted.**

Sometimes saliva and semen stains are more easily visualized under ultraviolet light. The use of an alternate light source will assist in locating the presence of such stains on the body of the patient during the medical forensic examination.

For female patients, visual inspection is the most common and available examination technique to detect genital trauma. Findings may include tears, bruising, abrasions and abnormal redness. The areas where these types of injuries are often found include the posterior fourchette, fossa navicularis, labia minora and the hymen. In the search for cross-transfer of evidence, it is essential to know the location and extent of the injuries sustained by the patient.

### **Collection of Forensic Evidence**

When a medical forensic examination is performed, the medical and evidence collection procedures must be integrated at all times. **Medical issues and treatment always take priority over forensic evidence collection.**

When collecting forensic samples, remember the following:

- Evidence is time-sensitive, collect as soon as possible
- In cases of reported oral assault within the last 24 hours, collect oral swabs first
- Write legibly; these items may be used in court to prosecute a sexual offense
- Wear powder-free gloves when collecting and packaging evidence
- Wearing a gown and hair covering can reduce contamination of evidence
- Change gloves frequently when examining different body areas to avoid possible cross-contamination of specimens
- Allow all wet evidence to air dry completely before packaging
- If unable to thoroughly dry wet items, document presence of wet items so the WVSP Forensic Lab will know to remove the items promptly to dry
- Swab any moist secretions with two dry swabs simultaneously to avoid dilution
- Swab any dried secretion/stain with two (2) sterile saline lightly moistened swabs simultaneously
- Allow swabs to air dry completely before packaging



- Always label the swab boxes with the site of collection
- Specimens collected for medical purposes should be kept and processed at the health care facility, per facility policy
- Specimens collected for forensic analysis **MUST** be mailed directly to the WVSP Forensic Laboratory (if reported to law enforcement)
- Seal paper bags and envelopes with evidence tape; never use staples
- Complete the information requested and affix a kit tracking label on all envelopes, forms, and swab boxes where indicated
- Initial across the evidence tape

## **Packaging Forensic Evidence**

To prevent the loss of hairs, fibers or other trace evidence, clothing and other evidence specimens, seal in paper or cardboard containers provided. Do not use plastic containers. Make sure all items are air dried before packaging. If the containers are plastic, moisture remaining in the evidence items will be sealed in, making it possible for bacteria to quickly destroy any unstable biological evidence. Unlike plastic, paper “breathes” and allows moisture to escape. If you must collect a heavily saturated tampon, there may not be adequate time to allow for thorough drying. In this case, using a plastic cup with multiple holes to allow for air flow may be the best option for collection. Only use a plastic cup if you can poke several holes in the cup to allow for airflow.

## **Preserving the Integrity of Evidence**

The custody of the evidence in the sexual assault evidence collection kit, as well as any clothing or other collected items, must be accounted for from the time it is initially collected until it is admitted into evidence at trial. This is necessary in order to maintain the “chain of custody”.

“Chain of custody” chronologically documents each individual who handles a piece of evidence from the time it is collected. The unbroken chain of custody establishes the integrity of the evidence and any subsequent analysis of the evidence and is a prerequisite to admitting the evidence in court.

All evidence envelopes and bags should be labeled with the name of the patient, the kit tracking number, the name of the examiner and the date of collection. To ensure the integrity of the forensic evidence and preclude tampering, the SANE or medical provider must seal the kit and any evidence bags or envelopes, with evidence tape and initial across the seal(s). This also applies to any clothing or other items collected that are too large to be sealed inside the kit.

The kit **MUST** be stored in a secure locked area until it is mailed directly to the WVSP Forensic Laboratory via FedEx (if a report to law enforcement) or mailed via FedEx to MUFSC (if a non-report to law enforcement).

## **DNA Analysis**

DNA analysis looks at areas within the DNA known as short tandem repeats (STRs). Forensic scientists isolate and identify specific areas, called loci, on STRs when acquiring a DNA profile. The DNA analysis measures the length variation caused by repeat blocks of base sequences found at the loci.

Another source of DNA that is being utilized by forensic scientists is Y-chromosome or “Y-STR” DNA. Y-STR DNA counts the number of base repeats at a focus on the Y chromosome only, the chromosome that determines the male gender. Y-STR DNA is inherited through the male lineage, so all males with the same paternal heritage will have the same Y profile. This method of DNA analysis is becoming increasingly helpful in sexual assault cases in which the majority of offenders are men, particularly in cases where there was digital penetration or oral contact.

The Y-Screen test can determine if foreign DNA is present in male offender/female victim sexual assault cases. Swab collection in both pediatric/adolescent and adult/adolescent cases should be based on where the offender may have let body fluids or may have touched the individual.

## Importance of Spermatozoa and Semen

Semen is composed of cellular and liquid components known as spermatozoa and seminal fluid, respectively. While one or the other may be present, both must be observed **to identify semen**. **Semen (spermatozoa and seminal fluid)**, and the role it plays in the analysis of sexual assault evidence is important.

The estimated survival time of spermatozoa in the vaginal, oral and anal orifices following ejaculation varies considerably in scientific studies. However, there is agreement that they can survive for up to 96 hours in the vagina (persisting longer in the cervical mucosa), and up to several hours or more in the anal cavity, particularly if the patient has not defecated since the assault.

The absence of semen when ejaculation occurs may be explained by any of the reasons below:

- A significant time delay between the assault and the collection of specimens
- After ejaculation, the patient was penetrated by an object other than the penis
- The patient could have inadvertently cleaned or washed away the semen
- The specimen was not collected in the examination process
- Offender may have used a condom
- Offender may have a low sperm count (frequent with heavy drug or alcohol use)
- Ejaculated somewhere other than in an orifice or on the patient's clothes or body
- Offender failed to ejaculate during the assault

Although the finding of semen, with or without the presence of spermatozoa, may corroborate the fact that sexual contact did take place and make a stronger case for the prosecution, its presence is not an absolute necessity for the successful prosecution of a sexual assault case.

## Clothing and Underwear Collection

Clothing provides a surface upon which traces of foreign material may be found, such as the suspect's semen, saliva, blood, hairs and fibers, as well as debris from the crime scene. While foreign matter can be washed off or worn off the body of the patient, the same substances often can be found intact on clothing for a considerable length of time following the assault. Different garments may have contact with different surfaces and debris from both the crime scene and the offender. Damaged or torn clothing may be significant and provide evidence of force.

Before the full examination, the SANE or medical provider needs to determine if the patient is wearing the same clothing they wore during or immediately following the assault. Collect clothing items **worn during the assault based on the medical history** provided by the patient.

- **Most common items of clothing collected** from patients and submitted for analysis are underwear, hosiery, blouses, shirts, and slacks/pants.
- An ultraviolet light source, which causes semen and other substances to become fluorescent when illuminated (Wood's lamp), can be used to detect stains on clothing.
- **Package clothing separately in paper bag(s)** to prevent cross-contamination. (e.g., If semen in the female patient's underpants is transferred accidentally to her bra or scarf during packaging, the finding of semen on those garments might appear to contradict the patient's testimony in court as to the events that happened during the assault).
- **Dry** any item of clothing that may have wet stains.
- Do **not** cut through existing rips, tears, or stains.

If, after air drying as much as possible, moisture is still present on any item of clothing and could leak through the paper bag, the labeled and sealed clothing bag should be placed inside a larger plastic bag with the top of the plastic bag left open. A label would then need to be affixed to the outside of the plastic bag, indicating to the forensic lab that wet evidence is present. To avoid loss of evidence due to putrefaction, staff at the forensic lab will promptly remove the clothing item upon receipt of the kit to dry the item.

If it is determined that the patient is not wearing the same clothing, inquire as to the location of the original clothing. This information should be given to the investigating officer so that arrangements can be made to retrieve the clothing before any potential evidence is destroyed.

## **Debris Collection**

Debris may be present on the patient or their clothing as a result of the sexual assault. Debris may include foreign hairs, dirt, vegetation, fibers, condoms, or even tampons that the patient is wearing during or after the assault. It is important to collect any foreign debris, as this could corroborate the patient's history, connect them to the scene of the crime, or provide DNA evidence from the assailant.

While performing the head-to-toe assessment, carefully observe for any debris. If debris is present, photograph the area and carefully collect the item and place it into a paper bindle. Label the bindle with the contents and site the debris was collected from. To help ensure the debris does not fall out of the paper, you can secure the paper closed with a piece of tape. Do not collect debris from various body areas inside the same bindle, each site must have its own bindle appropriately labeled. To gather debris, clean unused tweezers or tape may be used. If performing a tape lift of debris, do not place the tape on a paper bindle. Instead, place the tape against plastic to ensure ease of removal at the lab for testing.

If a tampon is present, allow it to air dry as much as possible prior to collection. You may use multiple layers of paper to bindle the tampon if needed due to the moisture present. If the tampon is unable to be dried, it is acceptable to use a plastic cup only if the examiner is able to create multiple holes in the lid for continued drying of the tampon. It is imperative to label the evidence bag with "Wet Item" so the lab knows to remove and dry the item upon receipt of the evidence.

## **Debris Collection-Fingernail Swabbing(s) and/or Cutting(s)**

Collect fingernail swabs or clippings if the patient broke a fingernail during the assault, scratched or dug at the body of the perpetrator, or if the patient cannot recall the details of the assault. Broken or dirty nails should be documented and photographed.

## **Additional Swabs**

Semen and blood are the most common body fluids deposited on a victim by a suspect. There are other fluids, such as saliva or sweat, which can also be analyzed to aid in the identification of the suspect.

Oral contact with the patient's breasts or genitalia is common. Be sure to ask the patient directly if and where the suspect put his/her mouth or where the suspect ejaculated.

It is important to examine the patient's body for evidence of foreign materials. A separate set of swabs should be used for every sample area collected. An alternate light source should be used in this collection procedure.

If fluids, such as dried blood, seminal fluid, saliva, sweat, or other biological materials are observed on any part of the patient's body during the examination, or if the patient mentions this type of contact in their statement, the debris material(s) should be collected by using 2 swabs lightly moistened with sterile water simultaneously. This may include the patient having foreign material in their hair. Any matted material may be collected by cutting. Patient consent is required prior to cutting any significant amount of hair. Allow the swabs to air dry before packaging. All swab boxes must be labeled with the site of collection.

If the patient details that kissing occurred, peri-oral swabs should be collected. These swabs do not enter the oral cavity. To obtain these swabs, moisten 2 swabs and simultaneously collect from the lips and surrounding areas.

## **Additional Swabs–Bite Marks**

When a bite mark is observed, photograph and swab the affected area by slightly moistening two (2) swabs with sterile water. It is important that photographs of bite marks be taken first before the area is swabbed.

Bite mark impressions can be compared with the teeth of a perpetrator and can be, in some cases, as important, for identification purposes, as fingerprint evidence. Saliva, like semen, may demonstrate the DNA profile of the individual from whom it originated.

Photograph the bite mark with a ruler placed adjacent to it, but not covering the bite mark to document its size. In some bite mark cases it may be appropriate to have a three-dimensional cast made. When possible, a dentist or forensic odontologist should be called in to examine the bite mark, make the cast and further document the findings. When needed, hospitals may contact the West Virginia Chief Medical Examiner's Office (304-558-3920) for a listing of qualified odontologists who can assist in this process.

### **Pubic Hair Combing**

Pubic hair combings must be performed during an exam, with the patient's consent, for any patient with pubic hair present. By performing pubic hair combings, you may be collecting foreign hairs or debris that transferred onto the patient during the assault. To lessen the chance that valuable trace evidence may be missed, combing of the pubic hair should be done thoroughly.

A bindle (paper towel) is placed underneath the patient's pubic hair area. Using the comb provided, the pubic hair is combed in downward strokes, so that any loose hairs or debris will fall onto the bindle. The bindle is carefully removed, and the comb is placed in the center of the paper. The towel is refolded in a manner to retain the comb and any evidence present. The bindle is returned to the envelope, labeled and sealed.

If the patient is prepubescent or has no pubic hair because of shaving, external genital swabs **MUST** be collected by swabbing the area using two (2) swabs simultaneously moistened with sterile water.

Any evidence of semen or other matted material on pubic hair should be collected in the same manner as other dried fluids or debris materials. Any matted material may be collected by cutting. Patient consent is required prior to cutting any significant amount of hair.

### **Vaginal Swab Collection**

Depending on the type of sexual assault, semen may be detected in the mouth, vagina and anus. Collect vaginal swab as follows:

- Collect swabs of female genitalia if there was vaginal/penile penetration, vaginal penetration with digits, other genital-to-genital contact, or contact that could have left biological material including oral-to-genital
- Internal vaginal swabs should only be obtained in the adolescent (pubertal) and adult population of female patients
- Prepubescent patients should **ONLY** have external genital swabbing
- Do not moisten internal vaginal swabs prior to sample collection
- Two (2) to four (4) swabs should be collected from each body orifice examined
- Label the swab boxes with the site of collection
- Do not aspirate the vaginal orifice or dilute the secretions in any way when collecting vaginal swabs

Embarrassment, trauma, or just a lack of recall about the assault may cause a patient to be vague or mistaken about the type of sexual contact that occurred. For these reasons, and because there may also be leakage of semen from the vagina or penis onto the anus, even without anal penetration, it is recommended that the patient be encouraged to allow examination of all three orifices so that specimens may be collected.

In cases where the patient insists that contact or penetration involved only one (1) or two (2) orifices (or in some circumstances, no orifices at all), it is important that the patient be allowed to decline collection of the non-contacted orifices. This "right to decline" serves to reinforce a primary therapeutic principle—the return of control to the patient.

However, if during the examination the SANE/healthcare provider believes that evidence may be present in areas disputed by the patient, it is recommended that the evidence be collected. Documentation that the patient declined the collection of those samples is necessary.

When collecting swabs, the SANE/qualified healthcare provider should take special care not to contaminate the individual collections with secretions or material from other areas, such as vaginal to anal or penile to anal. Such inadvertent contamination may unnecessarily jeopardize future court proceedings.

Each of the collection envelopes (*Vaginal/Penile and Additional Swabs*) used for oral and anal samples, include the swabs needed for collection. The patient, who needs to use a bathroom facility (*pre-exam*), should be told that semen or other evidence may be present in the pubic, genital and anal areas and urged to take special care not to wash or wipe away those secretions until after evidence has been collected. Instruct the patient to not wipe, or provide a sterile 4x4 gauze pad and collect this as an additional piece of evidence.

### **Penile Swab Collection**

For the male patient, the presence of saliva on the penis could indicate that oral-genital contact was made. If bite mark(s) are present on the penis or scrotum, follow procedures for collecting saliva from bite marks.

For the male perpetrator, the presence of vaginal secretions from the victim's DNA could help corroborate that the penis was introduced into the vaginal orifice. Two swabs lightly moistened with sterile water should be used to swab the penile shaft, foreskin, and glans. Two additional swabs lightly moistened with sterile water should be used to swab the scrotum. Swabs should be collected from these sites if there was penile/vaginal penetration, other genital-to-genital contact, oral contact, anal or rectal contact or foreign material disclosed or suspected (e.g., lubricant). Do not swab the urethral meatus. These swabs are not to be used for the medical diagnosis of sexually transmitted diseases; therefore, they should NOT be used to swab inside the urethral opening.

### **Oral Swab Collection**

In sexual assault cases when the patient was forced to perform oral sex, the oral swabs can be as important as the vaginal or anal swabs. The purpose of these swabs is to recover seminal fluid from the recesses in the oral cavity where traces of semen could survive. In addition, if there is a report of kissing during the assault, oral swabs may collect foreign DNA from saliva. Oral swabs only need to be collected if the patient presents within twenty-four (24) hours of the assault. Beyond twenty-four (24) hours, there is no data to support collecting intra-oral swabs.

In cases of suspected oral assaults this collection should be done first. Doing this collection allows the patient to rinse out her or his mouth as soon as possible and can reduce significant discomfort and distress. **The longer this evidence is in the body cavity uncollected, the more likely it is to be lost.**

Remember, in the case of a suspected oral assault (of adults/adolescents) within the last 24 hours, it will be necessary to prepare the blood stain card for the known sample.

**In pediatric/adolescent patients, to avoid additional discomfort, it is acceptable to collect the known patient reference sample as a known saliva regardless of oral assault history.**

In these cases, follow these steps:

- 1. Collect oral sample for potential assailant DNA**
- 2. Allow child to rinse mouth out with water**
- 3. Provide food and drink for the child**
- 4. Wait 30 minutes, at minimum**
- 5. Collect known saliva sample from the child**

Important reminders for collecting oral swabs:

- Collect oral swabs when there may have been genital/oral penetration with or without ejaculation within the last 24 hours.
- Collect oral swabs when there is a report of kissing on or in the oral cavity in the last 24 hours.
- Use dry swabs to rub around teeth, cheeks, gums and under the tongue.
- **Collect oral swabs up to 24 hours post assault.**
- The longer this evidence is in the body cavity uncollected, the more likely it is to be lost.
- If kissing is reported, collect peri-oral swabs in the additional swabs envelope.
  - Peri-oral swabs can be collected up to 96 hours after the assault.
  - Peri-oral swabs are collected as part of the "additional swabs" collection and not placed in the oral swab collection envelope.



## Anal Swab Collection

The SANE/qualified medical provider should examine the buttocks, perianal skin and the anal folds for injury, foreign materials and other findings. Any dried and moist secretions, stains, and debris/foreign materials should be collected. When there has been anal/penile or rectal/penile penetration, oral/anal penetration or contact, digital/object penetration or contact by the perpetrator, foreign material or an object, perianal and anal swabs should be collected following these steps:

- Swab the anal area using two (2) lightly moistened swabs simultaneously.
- Allow the swabs to dry.
- Label the swab box with the site of collection.
- Package the swab box inside the envelope. Label and seal the envelopes appropriately.
- Do not insert swab inside the anus.

## Known Patient Salvia Collection

The patient should not smoke or have anything to eat or drink for at least 25 minutes before this procedure. It is important that the saliva specimen not be contaminated by outside elements. The SANE/qualified medical provider should collect the known patient sample by collecting an adequate amount of DNA. **If there was an oral assault within the last 24 hours or the patient cannot recall the assault, the blood stain card should be used to collect the known sample.**

If not, collect a known patient saliva sample by:

- **Simultaneously swabbing around the inside of** one (1) cheek for 10-15 seconds using two (2) swabs.
  - **Recover cells, not just saliva.**
  - **Allow swabs to air dry before labeling and packaging.**

## Known Blood Collection

The dry blood and saliva samples serve as reference samples for the patient's DNA profile. Both can be used to determine the DNA profile of the patient for comparison purposes. In many cases of sexual assault, biological materials may be found on the suspect, the suspect's clothes and/or at the crime scene. Materials may also be found on the patient or the patient's clothing.

To minimize patient discomfort, blood needed for the "Known Sample" should also be collected at the same time as the blood is collected for drug or alcohol analysis or medical testing.

If whole blood is not being collected for medical or drug analysis purposes, a medical lancet should be used to prick the patient's finger. Fill all circles on the protein saver card as completely as possible and allow them to dry before packaging.

## Body Diagrams

Document all findings using the body diagrams in the sexual assault information forms. Findings include observable or palpable tissue injuries, physiological changes, or debris/ foreign material (*e.g., grass, sand, stains, dried or moist secretions or positive fluorescence materials.*) Be observant for erythema (*redness*), abrasions, bruises, swelling, lacerations, fractures, bites, and burns. Note areas of tenderness or indurations. Document injuries/findings on the body diagrams, describe the size, shape and the color and photograph the injury.

When performing assessments, the process of look – photograph – swab – then touch should be used. **Do not touch an area where evidence or injury is present before obtaining photographs and swabs.**

## Photography

Photographs can supplement the medical forensic history and physical findings. Photographs serve to visually document the actual physical appearance of an injury to preserve it for additional analysis and/or as evidence.

If photographs are taken, it should be with the specific consent of the patient. Minimize patients' discomfort while they are being photographed and respect their need for modesty and privacy. Drape them appropriately when taking photographs.

Photography should be limited to those instances where there is an opportunity to produce clear pictorial evidence of injury, such as bruises or lacerations. Photographs do not take the place of documentation of finding(s) on the body diagrams or written descriptions.

Because of the added trauma to the patient during the examination and in view of the probable and unnecessary embarrassment in court, photographs of the genital area should be taken after getting consent from the patient.

Once taken, photographs can be subpoenaed into evidence and may hurt the case if actual injuries appear minimal or cannot be seen. **Photographs should NOT be sent to the WV State Police Forensic Laboratory in the kit.**

Important reminders for taking photographs:

- The first and last photos taken should be the patient's information, kit tracking number, and date
- Use an inch scale or ruler for size reference in photographs
- Identify patients and anatomical locations being photographed by taking at least two photographs of each area, one with and one without scale
- Take full-body images (anterior, posterior, and lateral) with the patient's face visible and clearly identifiable
- Take medium-range photographs of each injury, including cuts, bruises, swelling, lacerations, and abrasions. Work from one side to the other and then top to bottom, or design a workable method
- Take close-up images of particular injuries, using the scale. When photographing an injury, show its relationship to another part of the body. Take at least three photographs involving the injured area. Be sure to shield uninvolved breast or genital areas when possible
- Close-up photographs of hands and fingernails may show traces of blood, skin, debris or hair
- Photograph marks of restraint or bondage around wrists, ankles, or neck
- Photographs or camera cards remain with the hospital copy of the sexual assault information forms and should not be scanned or placed in medical records

### **Toxicology—Blood/Urine Screen—Drug-Facilitated Sexual Assault**

There has been an increase in sexual assaults involving the use of drugs and alcohol. Drugs and/or alcohol can result in a loss of consciousness and a loss of the ability to consent. An individual who is incapacitated by alcohol and/or other drugs either voluntarily or involuntarily consumed is considered **incapable of giving legal consent** to intercourse because the person's ability to exercise reasonable judgment is impaired. In some cases, a victim may believe they are consensually using one substance, such as marijuana, and later found out it was laced with other drugs that caused incapacitation. Some of these drugs cause memory loss. The effects of all drugs are enhanced when taken with alcohol. Victims of alcohol and drug-facilitated sexual assaults often cannot remember the assault itself and therefore may not immediately report the assault.

Many substances are used to facilitate sexual assault including but not limited to the following:

- Alcohol
- Antihistamines, including diphenhydramine (Benadryl)
- Benzodiazepines, including alprazolam (Xanax), diazepam (Valium), lorazepam (Ativan), midazolam (Versed), clonazepam (Klonopin or Rivotril), temazepam (Restoril), and flunitrazepam (Rohypnol)
- Gamma Hydroxybutyric acid (GHB)
- MDMA/Ecstasy
- Sedatives/Hypnotics, including zolpidem tartrate (Ambien)
- Tranquilizers, including Ketamine

The most commonly identified substances reported by the West Virginia State Police Toxicology Laboratory in sexual assault samples are the following:

- Anti-depressants/anti-anxiety medications (e.g. Xanax, Klonopin)
- Methamphetamine, Cocaine, Amphetamine (e.g. Adderall)
- Cannabis/THC Compounds – Vape Cartridges, Gummies, etc.
- Diphenhydramine (e.g. Benadryl, Advil-PM)
- Dextromethorphan (e.g. Delsym, NyQuil)

For pediatric and adolescent patients, remember to consider over-the-counter medications that could have been used to facilitate the sexual assault.

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**On October 12, 1996, a federal law entitled “The Drug-Induced Rape Prevention and Punishment Act of 1996” was enacted. The bill provides penalties of up to 20 years imprisonment for persons who intend to commit a crime of violence by distributing a controlled substance to another individual without that individual’s knowledge.**

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SANEs/qualified healthcare providers, law enforcement and rape crisis center advocates should know what to look for in suspected drug-facilitated sexual assaults. If an adult/adolescent presents at a hospital with a complaint of sexual assault and displays any of the following behaviors, it is strongly recommended that urine and/or blood specimens (depending on time frame) be collected and submitted with the kit for drug or alcohol-facilitated sexual assault.

**In a drug-facilitated sexual assault (DFSA) the likelihood of detecting drugs used to commit the sexual assault diminishes each time the patient urinates; therefore, it is imperative that immediate action is taken to preserve the first voided urine.**

**An individual who is a victim of a drug-facilitated sexual assault may exhibit some of the following signs:**

|                      |                                 |
|----------------------|---------------------------------|
| Lack of body control | Decreased blood pressure        |
| Dizziness            | Impaired motor skills           |
| Confusion            | Impaired judgment               |
| Drowsiness           | Reduced inhibition              |
| Lack of body control | Decreased blood pressure        |
| Severe intoxication  | Slurred speech                  |
| Temporary paralysis  | Memory loss or “Cameo Memories” |

Once recovered from the effects of the drug, anterograde amnesia, it may be difficult to recall the events following the ingestion of the drug. For this reason, if the patient presents to the Emergency Department and does not know if she/he has consumed a drug(s), and if the SANE/qualified healthcare provider does not recognize the effects of the drug(s), the patient may appear to be intoxicated or “hung over.”

Toxicology screens should **not** be administered routinely to all patients of sexual assault. Blood and urine screens to determine toxicology should be done:

- If the patient or accompanying person (such as a family member, friend, or law enforcement) reports that the patient was drugged by the perpetrator(s)
- If the SANE/qualified healthcare provider believes the patient’s medical condition appears to warrant toxicology screening
- If the patient cannot recall the details of the assault.

Follow these guidelines when a drug-facilitated sexual assault is suspected:

- **If an alcohol or drug determination is made, always submit blood and urine when it is less than 48 hours since the assault occurred.**
- **If the time since the assault is more than 48 hours but within 96 hours of the assault, collect ONLY urine from the patient. (96-Hour Rule-if the drug was ingested within the last 96 hours,**

**collect a urine specimen).**

- If the kit's blood collection vials have expired, replace them with similar unexpired vials from hospital stock.
- Do not disinfect the skin with ethyl alcohol. Non-alcoholic antiseptics should be used.
- Sterile hypodermic needles and syringes should be used. Sterile disposable units are recommended.
- In a suspected DFSA, it is important to preserve the first voided urine whenever possible, even if that first void was brought with the patient or parent/guardian from home.
- If the patient presents with a urine specimen, label the specimen, seal the specimen, and include the specimen in the toxicology collection kit with the urine sample collected by the hospital. Document that the specimen was brought to the hospital with the patient.
- Blood collection steps should be performed only by a SANE/qualified healthcare provider.

Additional points to note after toxicology samples have been collected:

- **REFRIGERATION OF COLLECTED SPECIMENS IS NOT NECESSARY BEFORE TRANSFER.**
- The hospital or exam facility laboratory SHOULD NOT analyze toxicology samples.
- Criminal justice agencies should identify forensic laboratories that can analyze these toxicology samples.
- The period that drugs will remain in the urine or blood depends on several variables, including the amount ingested, the victim's body size and rate of metabolism, whether the victim had a full stomach, and whether they previously urinated.

**If the toxicology kit is collected, do not package it inside the kit box. Instead, place the toxicology box in the same shipping box with the kit. The toxicology kit must be sealed with evidence tape and labelled with the examiner's initials.**

### **Evaluation for Sexually Transmitted Infections (STIs)**

Contracting sexually transmitted infections (STIs) from perpetrator(s) is typically a significant concern of patients who have been sexually assaulted. Because of these concerns, it should be addressed as part of the medical forensic examination.

According to STD Treatment Guidelines, 2021, from Centers for Disease Control and Prevention (CDC), trichomonas, bacterial vaginosis, gonorrhea and chlamydia are the most frequently diagnosed infections among women who have been sexually assaulted.

Because the prevalence of these infections is high among sexually active women, their presence post-assault does not necessarily signify acquisition from the assault.

### **CDC recommends the following prophylactic regimen as preventive therapy.**

- Post-exposure hepatitis B vaccination, without HBIG; (*This vaccine should be administered to sexual assault patients at the time of the initial examination if they have not been previously vaccinated and if the hepatitis status of the suspect is unknown*).
- If the perpetrator is known to be HBsAg-positive, unvaccinated survivors should receive both hepatitis B vaccine and HBIG. (*The vaccine and HBIG, if indicated, should be administered to sexual assault survivors at the time of the initial examination, and follow-up doses of vaccine should be administered 1–2 and 4–6 months after the first dose. Survivors who were previously vaccinated but did not receive post-vaccination testing should receive a single vaccine booster dose (see [hepatitis B](#)).*
- HPV vaccination is recommended for female and male survivors aged 9–26 years who have not been vaccinated or are incompletely vaccinated. For MSM who have not received HPV vaccine or who have been incompletely vaccinated, the vaccine can be administered through age 26 years. For patients ages 15-26, the vaccine should be administered at the time of the initial examination, and follow-up dose administered at 1–2 months and 6 months after the first dose. For patients less than 15 years of age, a 2-dose schedule (initial visit and 6-12 months later) is recommended.
- An empiric antimicrobial regimen for chlamydia, gonorrhea, and trichomonas (women only); and emergency contraception.

## **Recommended Medication Regimen for Adolescent and Adult Female Sexual Assault Patients**

Ceftriaxone 500 mg\* IM in a single dose

### **PLUS**

Doxycycline 100mg orally twice a day for 7 days

### **PLUS**

Metronidazole 500 mg orally twice a day for 7 days

\*for persons weighing  $\geq 150$  kg, 1 g of ceftriaxone should be given.

Clinicians should counsel patients regarding the possible benefits and toxicities associated with these treatment regimens; gastrointestinal side effects can occur with this combination of medications.

## **Recommended Medication Regimen for Adolescent and Adult Male Sexual Assault Patients**

Ceftriaxone 500 mg\* IM in a single dose

### **PLUS**

Doxycycline 100mg orally twice a day for 7 days\* for persons weighing  $\geq 150$  kg, 1 g of ceftriaxone should be given.

## **Follow-Up Care for STIs**

After the initial post-assault examination, follow-up examinations provide an opportunity to do the following:

- Detect new infections acquired during or after the assault
- Complete hepatitis B and HPV vaccinations, if indicated
- Complete counseling and treatment for other STIs
- Monitor side effects and adherence to post exposure prophylactic medication, if prescribed.

If treatment was provided, testing should be conducted only if the patient reports having symptoms. Clinicians should counsel patients regarding the possible benefits and toxicities associated with these treatment regimens; gastrointestinal side effects can occur with the combination of medications.

If treatment was not provided, a follow-up examination should be conducted within 1 week to ensure that results of positive tests can be discussed promptly and treatment provided. STI testing for gonorrhea, chlamydia, and trichomoniasis should be repeated in 1-2 weeks if no empirical treatment is given at the initial visit.

Serologic tests for syphilis can be repeated 4-6 weeks and three (3) months after the assault if testing was done and results were negative. At the initial examination and, if indicated, at follow-up examinations, patients should be counseled regarding the symptoms of STIs, the need for immediate examination (if symptoms occur), and abstinence from sexual intercourse until STI prophylactic treatment is completed.

It is recommended that the most recent Treatment Guidelines for STIs from Centers for Disease Control and Prevention be adhered to whenever possible. Additional information is available from CDC online at <http://www.cdc.gov/std>.

## **Risk for Acquiring HIV Infection**

The medical provider must address patients' concerns regarding the possibility of contracting HIV. Patients should be offered information about HIV risks, symptoms, and the need for immediate examination if symptoms arise. HIV/AIDS testing must be discussed, including the difference between anonymous and confidential testing.

Local referrals for testing and counseling are available at the CDC hotline: **1-800-232-4636**. The CDC Hotline provides answers to questions regarding HIV and STIs. The hotline is staffed with counselors trained to provide information about the symptoms of HIV disease, how the virus is transmitted, where to get tested, and how to contact support groups; STI staff perform confidential patient interviews and subsequent partner notification/referral for persons diagnosed with Syphilis, Gonorrhea, Chlamydia, and HIV infection.



## HIV Post-Exposure Prophylaxis

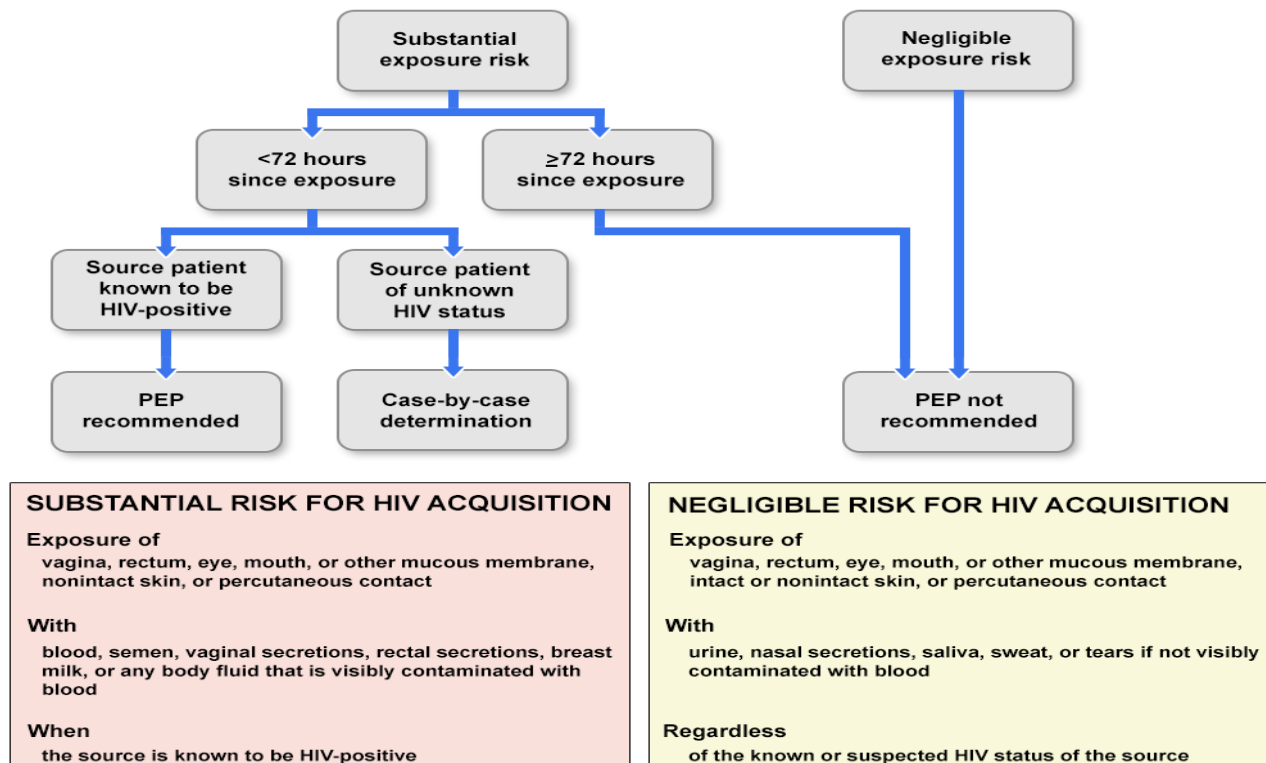
The use of HIV Post-Exposure Prophylaxis (PEP), after an acute sexual assault, is made on an individual basis and should be discussed with each patient. These decisions should take into account not only the specifics of the individual incident (e.g., the known facts about the suspect, the emotional state of the patient, the type of entry, whether ejaculation occurred, and the possible transfer of blood and other fluids), but should also be weighed with the usefulness of the tests in the given time frame.

A patient may not test positive for up to 3 months following exposure to HIV. Medical facilities are encouraged to develop policies and put procedures in place. The decision to recommend post-exposure prophylaxis (PEP) must balance the risks and benefits of taking the medication. The risk is primarily an adverse drug reaction. The benefit would be not acquiring an HIV infection.

### Centers for Disease Control and Prevention make the following recommendations for post-exposure HIV risk assessment of adolescents and adults < 72 hours after sexual assault:

- Assess the risk for HIV infection in the assailant. When possible, test the assailant for HIV.
- Use the algorithm for evaluation and treatment of possible nonoccupational HIV exposure to evaluate the patient for the need for HIV PEP.
- Consult with a specialist in HIV treatment if PEP is being considered.
- Discuss the use of PEP, including risks and benefits, if the patient is at risk for HIV acquisition.
- If HIV PEP is to be given, the patient should be discharged with 3-7 days' worth of medication and a prescription for the remainder of the course. If unable to provide a 3-7 day course, discharge the patient with a prescription for the full 28-day course.
- Schedule a follow-up visit to discuss test results and provide additional counseling (preferably with a specialist in HIV).
- If PEP is started, obtain an HIV antibody test, serum creatinine, AST, and ALT.
- Repeat HIV antibody test 6 weeks and 3 months after the initial visit.

PEP-related decisions may be difficult to make at the initial visit. Healthcare providers can call the National Clinician's Post-Exposure Prophylaxis Hotline (PEP Line) at 888-448-4911. Additional information is available from CDC online at <http://www.cdc.gov/std>.



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**An important consideration before initiating HIV PEP should include the patient's ability to adhere to the medication regimen. Incomplete PEP treatment can present a theoretical risk of increased resistance and this makes HIV more difficult to treat should the patient become HIV positive. Follow up is needed after the starting of HIV PEP to monitor side effects and assess compliance.**

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### **Pregnancy Risk Evaluation and Care**

The standard of emergency care established by the American Medical Association (AMA) requires that patients of a sexual assault be counseled about their risk of pregnancy and offered emergency contraception (EC).

The sooner EC is taken the better it works to prevent pregnancy after sexual assault. EC is most effective when taken within the first 12 hours after sexual assault, but is effective up to 120 hours (5 days) after the assault. Progestin-only pills containing levonorgestrel (Plan B) are FDA-approved for use as EC. They are more effective and have fewer side effects than some other medications.

EC can be offered on site. Plan B is available for purchase without a prescription. More information can be obtained at [www.planbonestep.com](http://www.planbonestep.com). Hospitals should develop specific consent forms and provide written information about follow up care and how to call back should the patient have questions.

It is important to remember that patients of different ages, social, cultural and religious/spiritual backgrounds may have varying feelings regarding acceptable treatment of EC. Patients must be allowed to make their own decisions about using EC. EC medications do not end a pregnancy.

While many patients have no symptoms from emergency contraception, the most common side effects are nausea and vomiting. Counsel patients that if they vomit within 3 hours of taking the dose, they will need to repeat the dose as soon as possible.

### **Release of Information and Evidence**

Evidence collection items should not be released from a medical facility without the written authorization and consent of the informed adult patient, or an authorized third party acting on the patient's behalf if the patient is unable to understand or execute the release. An "Authorization for Release of Information and Evidence" should be completed.

All medical and forensic specimens collected during the medical forensic examination must be kept separate, both in terms of collection and processing. Specimens collected for medical purposes should be kept and processed at the examining hospitals. Specimens collected for forensic analysis should be packaged and placed in the sex crime evidence collection kit.

When all evidence specimens have been collected, return the envelopes to the kit, making sure that everything is properly labeled and sealed. All required written information should be completed on the forms and envelopes.

The completed kit and clothing bags should be kept together and stored in a secured area with restricted access until shipped to the WVSP Forensic Lab if the patient provided consent to release evidence to law enforcement.

If the patient chooses to have a medical forensic examination and not involve law enforcement, the kit will be shipped to Marshall University Forensic Science Center (MUFSC) via Fed Ex where it will be stored for twenty (20) years.

The name of the physician completing the medical screening should be listed on page 10 of the sexual assault information form. The signature of the physician is NOT required, unless he/she conducted the entire medical forensic examination. The name of the medical provider or SANE MUST be legible and printed on the label on the outside of the kit when shipped to maintain chain of custody.

## **Post Examination - Patient Follow-Up Care**

The discussion of follow-up services for both medical and counseling purposes is an important treatment aspect for a sexual assault patient. Before the patient leaves the medical facility, the patient should be given written discharge information. The type and dosage of any medication prescribed or administered should be recorded on the form.

The original copy of the patient's discharge information should be given to the patient and the second copy retained for the medical facility's records.

The patient should be encouraged to obtain follow-up tests for possible pregnancy, sexually transmitted infections, or other infections. It is vital that both written and oral information be provided, including the locations of public health clinics or referrals to private physicians for medical follow-up.

It is important for the SANE or qualified healthcare provider to be familiar with the local rape crisis center services. If the patient has declined to speak to an advocate from the local rape crisis center at the hospital, information and resources should be provided about the services that are available.

## **Post Examination Care**

The patient may want to wash after the medical forensic examination. The hospital should provide the basics required, such as mouth rinse, soap and a towel.

If the patient's clothing has been collected for evidence purposes, the local rape crisis center or hospital volunteer organization often is able to provide clothing to ensure that the patient does not leave the hospital in an examination gown.

## **Mandated Reports to Law Enforcement**

SANEs and qualified healthcare providers are required by law to report suspected or observed abuse or neglect or risk of imminent danger of adults who are incapacitated and pediatric cases under the age of 18 years.

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**WV Code §9-6-9 requires that a report be made to the local Department of Human Services (DHS), Adult Protective Services (APS), or the 24-hour hotline provided for this purpose (800-352-6513) in suspected or observed abuse or neglect of adults who are incapacitated, or of emergencies where adults who are incapacitated are at imminent risk. "Incapacitated adult" means any person who, because of physical, mental, or other infirmity is unable to independently carry on the daily activities of life necessary to sustain life and reasonable health.**

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SANEs and qualified healthcare providers are required by law to report gunshot wounds and wounds or injuries caused by a knife or sharp or pointed instrument.

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**WV Code §61-2-27 mandates that any medical provider who provides treatment to a person suffering from a wound caused by a gunshot, knife, or other sharp pointed instrument which would lead a reasonable person to believe resulted from a violation of state criminal laws shall report to the law enforcement agency located in the county in which the wound was treated.**

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Any person who, in good faith, makes a report of abuse, neglect, or an emergency situation involving an incapacitated adult or facility resident or reports gunshot wounds or injuries caused by a knife, shall be immune from any civil or criminal liability that might arise as a result of making such a report.

## **Medical Forensic Examination and a Report to Law Enforcement**

Most sexual assault cases of patients over the age of 18 are not required to be reported to the police, and it is the victim's decision whether or not to report the crime. If a patient decides to have a medical forensic examination and **involve law enforcement the following steps must be taken:**

- The patient **MUST** sign and complete the consent form to authorize the collection of and release of information and evidence to law enforcement.
- The sexual assault evidence kit tracking number must be placed on all of the sexual assault forms and envelopes.
- All reported SAECKs will be sent directly to the Central Evidence Receiving Section of the WVSP Forensic Laboratory from the collecting facility using the prepaid FedEx shipping label and UN3373 specimen placards found in the SAECK. Kits should be mailed as soon as possible, but must be received by the WVSP Forensic Lab within 30 days of collection.
- The patient must be provided with the kit tracking number and this website <https://go.wv.gov/kit> to be able to determine the location of their kit.

### **Medical Forensic Examination and Non-Report to Law Enforcement**

Recognizing the dual importance of being sensitive to the needs of the patient and the timely collection and preservation of irretrievable physical evidence, the non-reporting process ensures that individuals who have been sexually assaulted, who are undecided about whether or not to report the assault, have the opportunity to have forensic evidence collected that would otherwise be destroyed through normal activity.

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**WV Code §61-8B-16(5c)—States that a victim of sexual assault is NOT required to participate in the criminal justice system or cooperate with law enforcement to have a medical forensic exam.**

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The “non-report” to law enforcement **IS NOT** an option for an individual under the age of 18 years of age, unless the minor has been emancipated by law.

Kits collected as non-reports are mailed to Marshall University Forensic Center, allowing time for a decision to be made about reporting the assault to law enforcement. Non-reported SAECKs stored at MUFSC will be stored for up to 20 years.

The SANE/qualified healthcare provider must notify the patient that the kit will be held for that period of time. The patient must be given a copy of the non-report consent form (pink copy), which provides them with information about how to proceed with an investigation should they change their mind about reporting.

Forensic samples collected as part of the medical forensic examination (*e.g., swabs*) will have an unlimited lifespan if collected and dried properly. Any toxicology specimens could degrade over time, to the point of no evidentiary value. Be sure to discuss this with the patient. It is also, important to remember that there is no statute of limitations for reporting sexual assault in WV.

### **Initiating an Investigation in a Non-Report**

**Should the decision be made at a later time to initiate an investigation, the victim would need to contact law enforcement.** The kit tracking number will be needed for law enforcement to request the kit from MUFSC by completing and submitting a **“Request to Transfer” form**.

### **Decision to Prosecute**

The decision to prosecute a sexual assault is the responsibility of the state. It is not up to the victim to decide to “press charges”. Seeing that a suspect is made criminally responsible for the act is not the victim’s job, nor should the victim be made to bear the weight of responsibility for criminal consequences to a suspect.

If a prosecution does follow, the victim’s responsibility is to appear, if subpoenaed as a witness, and to tell the truth. Even though it is rare for an unwilling victim to be forced to testify, preparing the victim for later steps in the criminal process is best left for another day.

### **Sexual Assaults That Occur Outside West Virginia Borders**

Because West Virginia borders Kentucky, Virginia, Pennsylvania, Ohio and Maryland, it is possible that a victim of sexual assault, who experienced the assault in another state, could come to a West Virginia

hospital for a medical forensic examination.

When performing an exam on a victim who experienced assault in another state, examiners will use the WVSAECK. After completing the SAECK, the examiner must call law enforcement in the jurisdiction in which the assault occurred to retrieve the SAECK. Do not send the SAECK to the WVSP Forensic Laboratory if the assault occurred outside of West Virginia and the victim is making a report to law enforcement, as this will delay kit processing.

If the victim decides not to report the assault that occurred outside of West Virginia, mail the SAECK to the Marshall University Forensic Science Center.

### **Reimbursement from the Forensic Medical Examination Fund**

For a hospital to receive the \$1000 reimbursement from the Forensic Medical Examination Fund for the forensic examination in sexual assault cases, the SAECK information must be entered into the WV SAECK Informational System at the time of collection at the following link:

<https://apps.wv.gov/DJCS/SAEK/Login.aspx>

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**Any non-forensic procedures performed by the hospital, including treatment of injuries, testing for pregnancy, and testing for sexually transmitted infections (STIs), are NOT paid for from the Forensic Medical Examination Fund.**

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### **Discharge and Follow-Up Instructions**

Hospitals are required to provide oral and written information and resources to patients upon discharge about any related medical procedures, laboratory tests, medications provided, possibility of infection or sexually transmitted infection, and post-exam care that is needed following the medical forensic exam. This includes information about referral and advocacy services provided by the local rape crisis center and/or Child Advocacy Center. In addition, hospitals should provide the victim with the opportunity to wash, and change clothes (providing replacement clothing if necessary).

### **Transfer Facilities**

For facilities that are not equipped to provide medical forensic examinations due to lack of SANEs/qualified healthcare providers, the SAFE Commission **requires** that a signed letter of agreement be submitted from the receiving hospital that will conduct medical forensic examinations.

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**If there are acute medical or psychological injuries that must be treated immediately, this should be done at the initial receiving medical facility. A copy of all records, including any X-rays, should be transferred with the victim.**

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### **Transportation Protocol**

Each county will have a responsive service system that will provide transportation services to victims of sexual assault.

The SAFE Commission requires that the transportation protocol include the following four core components:

1. Accessible transportation, including the ability to transport victims with disabilities
2. Transportation to and from the medical forensic exam, regardless of the victim's ability to pay
3. Plan for victim confidentiality
4. Plan to return the patient to his or her point of origin (or an agreed upon safe place) after the medical forensic examination

REMINDER: EMTALA regulations must be followed for all transfers of patients to another facility.

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**The WV Foundation for Rape Information and Services is the coalition of West Virginia's rape crisis centers and allied professionals. Learn more about WV's Rape Crisis Centers at [fris.org](http://fris.org).**

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