

**Kentucky Sexual Assault Evidence Collection Protocol**

# Hospital /Community Facility Procedural Guidelines for the Forensic & Medical Examination of Adult Sexual Assault Victims in Kentucky



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**March 2002**



# PREFACE

Traditionally, the successful prosecution of sexual assault cases has been difficult. Since the victim often is the only witness to the crime, the collection of physical evidence, as well as the documentation of trauma is important in order to substantiate the history given and to help strengthen a case for court.

No one knows how many actual assaults take place each year. Some victims choose not to report the assault because of embarrassment, fear, and the trauma they experience as a result of the assault. Others don't report due to a lack of faith in the medical treatment process, as well as in the criminal justice system. For those that do report, evidence collection and medical treatment is vitally important.

Evidence from the offender and the crime scene often may be found on the body and clothing of the victim. When immediate forensic and medical attention is received, the chances increase that some type of physical evidence will be found. Conversely, the chances of finding physical evidence decrease in direct proportion to the length of time that elapses between the assault and the examination. Professional and unbiased forensic examination can provide evidence for successful prosecution of an offender or lead to the release of someone falsely accused.

Ideally, the task of collecting physical evidence from the body of a victim in sexual assault cases should be performed by sexual assault nurse examiners (SANE) and forensically trained physicians in hospital emergency departments or sexual assault examination facilities. A SANE is a registered nurse licensed in Kentucky who has completed the required didactic, clinical, and continuing education components and possesses a SANE credential issued by the Kentucky Board of Nursing. Only nurses with this credential may use the initials SANE.

The role of the SANE or physician is to:

1. gather an appropriate forensic and medical history,
2. identify, collect, preserve and document evidence,
3. determine if the evidence is consistent or inconsistent with the history given,
4. diagnose and/or treat within the scope of practice of the physician or nurse,
5. refer for appropriate treatment and follow-up care, and
6. testify in court proceedings.

These professionals also promote recovery of the victim with compassionate and timely care, as well as refer to community resources.

The primary purpose of this document is to assist examination facilities to:

- ◇ minimize the physical and psychological trauma to the adult victim of a sex crime
- ◇ maximize the probability of collecting and preserving the physical evidence for potential use in the criminal justice system
- ◇ address important issues surrounding the collection of medical and physical evidence

For the purpose of this document the term "victim" is used rather than "survivor" to emphasize that the individual presenting to a facility with the history or complaint of sexual assault is the victim of a criminal act.

# ACKNOWLEDGMENTS

In 1985, the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, funded the Illinois Attorney General's Office and Martha Goddard to develop a uniform evidence collection protocol for hospital treatment of sexual assault victims. Once the protocol was published, Ms. Goddard received further funding from the Office for Victims of Crime to provide technical assistance to 14 states to develop and implement a comprehensive forensic and medical protocol for sexual assault examinations.

In 1988 the Victims Advocacy Division of the Kentucky Attorney General's Office began work on the first Commonwealth of Kentucky protocol, and the Kentucky Sexual Assault Medical Protocol Committee was formed. This task force reviewed and revised a report from the National Advisory Committee and made recommendations based on their expertise and experience. This report was titled "Sexual Assault/Abuse: A Hospital/Community Protocol For Forensic And Medical Examination."

In March of 1996, House Bill 495 directed physicians and credentialed sexual assault nurse examiners to perform sexual assault forensic examinations in compliance with a statewide medical protocol developed by the office of the Chief Medical Examiner.

In 1999 the Governor created a task force to specifically address sexual assault issues. The Governor's Task Force Report mandated that a guide to implementing the statewide medical protocol be developed. In October 2000, the Kentucky Association of Sexual Assault Programs organized a statewide SART Steering Committee, under which a working group was formed to address this task.

Using a preliminary document developed by the Medical Examiner's Office, members of the criminal justice system, victim advocacy, forensic medicine, forensic nursing, and other professionals worked to produce this final product. In 2002 the Hospital/Community Procedural Guidelines for the Forensic and Medical Examination of Adult Sexual Assault Victims in Kentucky was published and distributed throughout the state.

While many all over Kentucky collaborated on this project, thanks also goes to others throughout the United States who shared their uniform protocols, time, and knowledge to aid in addressing the evidentiary, medical and emotional needs of this population.



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# GENERAL INFORMATION

## REPORTING

Victims of sexual assault should be given information on how to report the incident to law enforcement. The victim should be informed that s/he may be responsible for the costs of medical treatments other than procedures involved in the forensic examination. If adult victims are reluctant to sign a consent form for the collection of evidence, they should be assured that cooperation in collecting physical evidence will not obligate them to pursue prosecution of their case. However, at this time, reimbursement from the Rape Victim Assistance Fund for the forensic examination is contingent upon reporting to a law enforcement agency. The victim should be informed that the Commonwealth of Kentucky, through the Crime Victim Compensation Fund, may be able to reimburse some expenses if certain requirements are met.

There will be times when a victim will choose not to report the crime to law enforcement, yet will seek medical care. Every effort should be made to understand the reasons why the victim will not report the crime. This may lead to an opportunity to educate the victim about services as well as dispel myths or misinformation. Nevertheless, there are victims who make the decision not to report the crime. It is still recommended to perform a medical examination, offer prophylactic medication, and provide referrals to community services.

## PAYMENT

As outlined in 40 KAR 3:010, the Rape Victims Assistance Fund provides payment to examination facilities for use of the examination room and lab tests, and to physicians or SANE's for conducting the sexual assault examination. For information on how to apply for this reimbursement, contact the Rape Victims Assistance Program at (502) 696-5500.

## CONSENT

Obtaining a patient's written consent prior to conducting a medical examination or administering treatment is standard practice. However, consent for the collection of evidence must also be obtained for the forensic examination. In addition, facilities must gain consent in order to use the photographs obtained for teaching purposes, if they plan to do so. This may either be a separate form or included within the consent for treatment/evidence collection form. Without this documented consent, those photographs should not be used for teaching or any other purposes other than for that individual case.

Informed consent should be an ongoing educational process that involves more than obtaining a signature on a form. When under stress, many victims may not always understand or remember the reason for unfamiliar, embarrassing, and sometimes intimidating procedures. Therefore, all procedures should be explained as much as possible, so that the victim can understand what is being done and why. Although much of the examination and evidence collection process can be explained by the support person, this function is ultimately the responsibility of the individual(s) performing the forensic examination and providing medical treatment.

When written consent is obtained, it should not be interpreted as a 'blank check' for performing tests or pursuing questions. If a victim expresses resistance, the examiner should immediately discontinue that portion of the process and consider going back to it at a later time in the examination if the victim then agrees. The examiner should explain why that portion of the process is needed. In either event, the victim has the right to decline any tests or procedure. Having a sense of control is an important part of the healing process for victims, especially during the early stages of examination and initial interviewing.

It is also important to remember that consent to have a support person present during the exam must be given by the victim prior to the introduction of that person. However, Kentucky Regulation 502 KAR 12:010 states that prior to the forensic examination, the facility shall contact the rape crisis center to inform the on-call advocate that a victim has arrived at the health facility for an examination. After that advocate arrives, seek consent from the victim for the advocate to be present during the exam. Also, at any time throughout the treatment and evidence collection process, the patient should be able to decline further interaction with the designated support person and/or request that the support person leave.

Hospitals and examination facilities should follow their usual procedures for obtaining consent in extraordinary cases, e.g., for severely injured or incoherent patients. Minors are also legally capable of consenting to an examination without parental consent as stated in KRS 216B.400.



# SENSITIVITY TO VICTIM NEEDS

Some sexual assault victims suffer severe physical injuries, contract a sexually transmitted or other communicable infection, or become pregnant as a result of the attack. In each situation, victims will experience varying degrees of psychological trauma, although the effects of this trauma may be more difficult to recognize than physical trauma. An individual's perception of how sexual assault victims should look, dress or act, and the way those perceptions are conveyed can have a significant effect upon the victim's recovery process in the weeks and months following the crime. Each person has his or her own method of coping with sudden stress. When severely traumatized, victims can appear to be calm, indifferent, submissive, jocular, angry, or even uncooperative and hostile toward those who are trying to help. All of these responses are within the normal range of anticipated reactions. An inappropriate response to information concerning the circumstances surrounding the assault or a misinterpretation of a victim's reaction to the assault may lead to further trauma and hinder the interview or evidence gathering process. It is recommended, therefore, that examiners are knowledgeable of local and regional community resources so referrals may be made on a case by case basis.

Additionally, it is imperative that professionals from law enforcement, victim advocacy, and health care respect cultural diversity. Individuals hold a variety of beliefs that may not be congruent with those offering services. It is important that providers are considerate of these differences in their community.

For instance, in certain cultures, the loss of virginity is an issue of paramount importance that may render the victim unacceptable for an honorable marriage; in other cultures, the loss of virginity may not be as great an issue as that of the assault itself. Also, religious doctrines may prohibit a female from being disrobed in the presence of a male who is not her husband, or forbid a genital examination by a male. Such practices are considered a further violation. In such instances, a female examiner should be made available for victims who request them if possible.

## CONFIDENTIALITY

Only those staff members directly involved in evidence collection, investigation or medical care of the victim need to be included in the discussion of the history or findings. It is important that investigators, victim advocates, and facility healthcare personnel only discuss the case with those who have a LEGITIMATE interest in the case. It is the victim's decision to disclose the sexual assault or withhold information from family and friends. In addition, facilities should maintain a 'No Information' policy when dealing with members of the media. All questions from the media should go to a designated person or department such as Administration or Public Relations.

## VICTIMS OF DOMESTIC VIOLENCE

Health care professionals must be cognizant of marital rape when dealing with domestic violence cases. Referrals for support services are critical for both the victim and others who may live within the household. Every facility that provides evidentiary collection services must also have knowledge of community services such as domestic violence shelters and be aware of the procedures for placement of both the victim and children or others. Kentucky law requires reporting situations of domestic violence to law enforcement.

## THE ELDERLY VICTIM

In addition to being at an increased risk for more severe pelvic injuries and contracting sexually transmitted infections during a sexual assault, the older victim may also have an increased risk for other tissue or skeletal damage and exacerbation of existing illnesses and vulnerabilities. The examiner may need to be extra cautious during the exam to help prevent further damage to the elderly victim's frail skin and membranes.

## VICTIM WITH SPECIAL NEEDS

### *Communication Disabilities:*

Under Section 504 of the Federal Rehabilitation Act of 1973, any agency (including hospitals and police departments) that directly receives federal assistance or indirectly benefits from such assistance, must be prepared to offer a full variety of communication options in order to ensure that hearing-impaired persons are provided effective health care services. One option which must be provided at no cost to the patient includes providing interpreters who can accurately and fluently communicate information in sign language.

Under Title 111 of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, all businesses and services operated by private entities are legally obligated to ensure the provision of public accommodations of the deaf and hard of hearing individuals to obtain equal access to services.

It is imperative that facilities have established protocols in place prior to servicing a victim with special communication needs. A family member who has some sign language skills does not constitute a 'qualified' professional interpreter and does not exempt hospitals or examination facilities from accountability.

### *Language:*

It is also inappropriate to use a family member to interpret for any victim of sexual assault, other than in a life-threatening emergency, as at times the interpreting family member may in fact be the perpetrator. Follow facility guidelines for obtaining an appropriate interpreter.

### *Other:*

The Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, also protects individuals with other disabilities including but not limited to developmental disabilities, traumatic brain injuries, and learning disabilities.

## THE MALE VICTIM

It is believed that the number of adult male victims of sexual assault who report the crime or seek medical care or counseling represents only a very small percentage of those actually victimized. Many adult males do not seek medical care unless they also have been seriously injured. Referrals to available therapists or advocacy groups with expertise in the area of sexual assault of males are vital to assist in the recovery process.

## **THE DECEASED VICTIM**

Death investigations sometime indicate the possibility of an associated sexual assault. When such a case exists, it is appropriate to collect specimens and standards from the victim's body during the postmortem examination (autopsy). Such collection should be performed by the medical examiner. Medical personnel having access to the body at a scene or in an emergency department should not attempt to collect evidence unless so directed by the county coroner.

The evidence collection process described in this document can be used for deceased persons. The basic collection instructions are modified to require the collection of all necessary and obtainable standards such as blood samples, saliva samples, pulled head hairs and pulled pubic hairs. It is important that the standards are adequate and representative, as the autopsy is the last opportunity to obtain those standards from a deceased victim.

## **THE LESBIAN/GAY/BISEXUAL VICTIM**

Whatever the motivation of the assailant, a sexual assault is as traumatic to the lesbian, gay, or bisexual victim as it is to heterosexual victims. It is unnecessary for the victim to disclose their sexual orientation to the attending personnel. It is important to resist assuming that every victim is heterosexual. In addition, it is not always the case that the victim of a same-sex sexual assault is homosexual. Using the term "partner" may be preferred instead of "wife" or "husband".

## **THE CHILD VICTIM**

As stated in KAR 20:411, SANE's are trained to perform forensic evaluations on victims fourteen (14) years of age or older. Therefore, victims under the age of 14 should be evaluated by a pediatric physician either at a Child Advocacy Center, a pediatric hospital, or other facility that utilizes pediatric physicians.

# THE SEXUAL ASSAULT MEDICOLEGAL EXAMINATION ADULT PROTOCOL

## EVIDENCE GATHERING

Some of the following evidence gathering procedures set forth herein will be completed at the facility with the results sent to the officer or the prosecutor assigned to the case. The law enforcement officer involved may provide a sexual assault evidence collection kit. However, it is recommended that facilities have a supply on hand. The kits can be obtained from the Kentucky State Police and/or the KSP Forensic Laboratory. Once the kit is opened, chain of custody must be maintained until it is transferred over to the law enforcement officer and subsequently the KSP Forensic Laboratory.

## INITIAL LAW ENFORCEMENT RESPONSE

Many adult victims of sexual assault will have their first contact with a law enforcement officer following the assault. The primary responsibilities of this officer should be:

1. Ensuring the immediate safety and security of the victim.
2. Securing the crime scene.
3. Obtaining some basic information about the assault in order to apprehend the assailant.
4. Ensuring transportation of the victim to a designated facility for a forensic examination and medical treatment.

At the treatment facility, the responding officer and the physician and/or SANE should share with each other the available information about the assault, which may assist in the examination, evidence collection procedures, and criminal investigation.

## SUPPORT PERSONNEL

The importance of having a support person available for sexual assault victims cannot be overemphasized. Whenever possible, one person should be assigned to stay with the victim throughout the entire facility visit. Support persons with education, experience, and skills can provide the crisis intervention necessary when victims first arrive. They can assist staff in explaining the necessity of medical and evidence collection procedures, and they can counsel family members or friends of the victim who may be at the facility. A support person also can help provide counseling referrals and other information, such as the existence and availability of victim compensation programs or other types of assistance, and emphasize the importance of follow-up care such as answering additional questions.

Kentucky's network of rape crisis centers provide victim advocacy services to every county in the Commonwealth. Each rape crisis center has victim advocates available 24-hours a day to assist victims who have specialized training regarding crisis intervention with rape victims. Kentucky's Sexual Assault Medical Protocol, as outlined in 502 KAR 12:010 requires that the hospital or examination facility contact the local rape crisis program when a victim presents to the facility. The facility should contact the rape crisis center and request the victim advocate as soon as they are informed the victim is present or en route. Once the advocate arrives, the victim should be asked whether or not s/he would like the advocate to be present during the exam.

Some facilities throughout the state may have in-house staff who could provide additional victim support. There may be other community resources available as well. It is important to know which resources are available in your community to assist the victim.

## **FACILITY OR HOSPITAL PERSONNEL**

According to KRS 216B.400, hospitals providing emergency services shall have 24-hour access to either a SANE or physician to perform the exam. Regardless of who treats the victim, the examiner should have education, experience, and knowledge in the identification, collection, documentation, and preservation of evidence of sexual assault victims.

## **FACILITY PROCEDURES**

Victims of sexual assault should be considered medically emergent. Many victims may not have visible signs of serious physical injury. However, they will, at the very least, be suffering from emotional trauma. Sexual assault cases should be triaged and processed as quickly as possible, and attempts should be made to place the victim in a private location other than a public waiting room.

## **SEXUAL ASSAULT RESPONSE TEAMS**

A Sexual Assault Response Team (SART) is a multidisciplinary approach to responding to the crime of sexual assault. The team is comprised of representatives from law enforcement, an advocacy program, and a SANE or a physician. The team approach enhances communication between all disciplines, and is victim-focused.

Each community will develop its own policies and procedures for the operation of SART. Fundamental to those policies and procedures is the process that will deploy the team members, determine how the interview is to be conducted, and outline the process for maintaining chain-of-custody, etc. It is highly recommended that a team interview be conducted with the victim so s/he does not repeat the history multiple times to multiple people. However, each SART may vary in this procedure. During the interview the SANE or physician can obtain much of the medical and forensic information needed prior to the examination. During the examination the SANE or physician shall obtain a detailed medical history as well. Additionally, during the exam, the investigator does not need to be in the room, and depending on the SART protocol, may leave the facility while the victim undergoes the examination process. The victim is given the option as to whether or not s/he prefers the advocate and/or someone else to be present during the examination. After the medical-legal examination, the victim is given follow-up instructions and medication as prescribed. The SANE or physician maintains chain of custody of the Sexual Assault Evidence Collection Kit in a locked or secure location as per an established SART protocol, and a member of law enforcement can return to pick up the completed evidence collection kit at a later time. By utilizing this approach, members are able to conduct a team interview, perform the medical-legal examination, and provide much needed referral information to victims of sexual assault in a compassionate and timely fashion.

## **TYPES OF PROGRAMS**

Some communities choose to operate their SART programs from facilities other than hospitals. For example, Grand Rapids, Michigan operates a SART program from the local YWCA. Several Child Advocacy Centers in Kentucky are exploring options to include a separate SART room for treatment of adult sexual assault victims. A few SANE programs operate independently, with the SANE's having privileges at several of the local hospitals. It is important to note that each community is different, therefore what works in one community may not work well in another. This emphasizes the need for effective collaboration and communication among the differing agencies in each community to decide how their program will work.

## TRANSFER of Victims

It is advantageous for all victims of sexual assault to seek a medical-legal examination from a hospital or sexual assault examination facility with staff specifically trained to offer this service. Private physician office facilities or local clinics usually do not have evidence collection kits on hand, and may not be familiar with specific evidence collection procedures relevant to sexual assault victims. Additionally, many private offices or neighborhood clinics are not open on a 24-hour basis, and may not have equipment available.

If a victim of sexual assault arrives at a facility that is not equipped to provide a sexual assault examination, arrangements shall be made to transfer the victim to the nearest designated treatment facility. Each transfer and examination may lead to the loss or destruction of evidence, so whenever possible, effort should be made to preserve this evidence. However, any acute medical injuries requiring immediate treatment should be treated at the initial receiving facility. A copy of all records, including any X-rays taken, should be transported with the victim to the designated treatment facility. All medical facilities receiving federal funds, including Medicare and Medicaid payments, are prohibited from refusing treatment or transferring any victim whose condition is not stable (Consolidated Omnibus Budget Reconciliation Act [COBRA]; Section 9121, 1888 (a) (1)(I), 18(a)(1)(I) , 1867; 1985)

Transfer plans should be developed in conjunction with other treatment facilities in the immediate and surrounding community, and the list of designated facilities should be provided to all local law enforcement agencies and victim advocacy organizations. SART programs can be instrumental in the development of transfer policies. This action will greatly reduce the amount of confusion incurred by those victims who are initially taken or referred to a non-treatment facility, as well as reduce the potential for loss of evidence.

# MEDICOLEGAL EXAMINATION DOCUMENTATION

## FORENSIC EXAMINATION RECORD

Findings from the physical examination should be documented as completely as possible on the forensic examination record. Sexual assault prosecutions may not always require the presence or testimony of the attending healthcare provider; however, there will be times when it is necessary. If testimony is needed, a thorough and legible record, accompanying body diagram, and photographs will assist the SANE or physician in recalling the incident.

When gathering information necessary to perform the medical and forensic examination, **THE EXAMINER MUST BE CAREFUL NOT TO INCLUDE ANY SUBJECTIVE OPINIONS OR CONCLUSIONS AS TO WHETHER OR NOT A CRIME OCCURRED.** The indiscriminate use of the term "rape" or "alleged sexual assault" on the forensic examination record documents is a conclusion that may prejudice future legal proceedings. Examiners should always document objective findings and use quotations as much as possible.

Additionally, SANE's and physicians are not 'investigators' for law enforcement. They should not ask for details beyond what is necessary to perform the medical and forensic evidence collection tasks. For example, it is necessary for the examiner to have knowledge of what position the victim and assailant were in during the assault. This is important because it aids the examiner in determining the site and extent of any injuries that may have occurred. However, in most cases it is not necessary for the examiner to ask or document what the victim was doing hours prior to the assault unless it has evidentiary value related to the exam.

pertinent information that should be included on the appropriate forms:

### **1. Date and Time of Collection/Date and Time of Assault**

It is essential to know the period of time that has elapsed between the assault and the collection of evidence. The presence or absence of physical evidence may correspond with the time interval since the assault.

### **2. Offender(s) Description**

Forensic serologists seek evidence of cross-transfer of trace materials among the victim, assailant(s), and the scene of the crime. These trace materials include foreign hairs and secretions from the assailant(s) on the victim. The gender of the assailant may determine the type of foreign secretions which might be found on the victim's body and clothing. Therefore, document the gender of the assailant, and whether to search for foreign semen or vaginal secretions. It is also important to document the race and age(s) of the assailant(s), if known.

### **3. Action of Victim Since Assault**

The quality of evidence is critically affected both physically and chemically by actions taken by the victim and by the passage of time. Therefore, it is important to document any information provided by the victim about such action. For example, the length of time that elapses between the assault and the collection of evidence, as well as self-cleansing efforts of the victim, can affect the presence of semen found in the vagina or rectum. Trace evidence such as foreign hairs, fibers, plant material or other microscopic debris may also be lost if the victim has showered, douched, brushed teeth, or changed clothes since the time of the assault. Failure to explain the circumstances under which evidence might have been destroyed may jeopardize criminal prosecution if apparent contradictions cannot be accounted for in court.

### **4. Contraceptive/Menstruation Information**

Certain contraceptive preparations can interfere with accurate interpretation of the preliminary chemical test frequently used by crime laboratories in the analysis of potential seminal stains. In addition, contraceptive foams or creams can destroy spermatozoa. Lubricants of any kind, including oil or grease, are trace evidence and may be compared with potential sources left at the crime scene or recovered from the body of the assailant. Knowing whether or not a condom was used also may be helpful in explaining the absence of semen.

Tampons and sanitary napkins can absorb all of the assailant's semen, as well as any menstrual blood present. These hygienic devices are collected immediately after the assault. They should be dried, packaged in paper, labeled, sealed and sent for analysis.

### **5. History of Assault**

An accurate description of the assault is crucial to the proper collection, detection, and analysis of physical evidence. Documentation should include a description of oral, rectal, or genital penetration of the victim, including what was used to penetrate; oral contact by the offender; and whether or not ejaculation occurred (if known by the victim). Analytical findings by the crime laboratory can corroborate the victim's history of the event.



## **6. Location of Assault**

Information regarding the location of the assault should be recorded (i.e., car, rug, grass, alley). This information will assist the healthcare provider with an indication of where to look for evidence and what evidence to collect such as hairs, fibers, plant material, or other trace material.

## **7. Date of Last Coitus**

When analyzing semen specimens in sex-related crimes, forensic analysts sometimes find genetic markers which are inconsistent with a mixture from only the victim and the assailant. A mixture of semen from an assailant and the victim's previous sexual partner could lead to blood grouping results which, if unexplained, could conflict with the victim's own account of the assault. Forensic analysts request that examiners ask victims if they engaged in other sexual intercourse within one week prior to the assault. If so, victims are then asked the date of the contact in order to help determine the possible significance of semen remaining from the prior sexual contact. As with all procedures, it is important to explain to the victim why this information is needed. Otherwise, the victim may interpret these questions as unnecessarily intrusive into events not related to the assault.

The recollections of the victim may become less accurate if they go unsolicited until after the crime laboratory identifies discrepancies between the assailant(s) DNA profile and the DNA profile of the seminal stains. In some cases, several months may elapse between the initial medical examination, the crime laboratory analysis, and the follow-up interview with the prosecutor and victim. Therefore, obtaining this information as soon as possible is highly important.

## **8. Medical History**

A medical history of the victim should be recorded. This should include vital signs, any allergies, current medication, acute or chronic illness, surgery and any post-assault symptoms such as bleeding, pain, loss of consciousness, nausea, vomiting or diarrhea.

## **9. Gynecological History**

Gynecological information including menstrual history, pregnancy history, and contraceptive history should be evaluated and recorded. If indicated, a pregnancy test should be done to determine a pre-existing pregnancy.

## **10. Physical Examination Details: Photographs and Drawings**

During the general physical examination, all details of trauma, such as bruises, abrasions, lacerations, bite marks, blood or other secretions should be recorded, with particular attention paid to the genital and rectal areas of the victim. The victim's history can be used to determine which areas need to be examined closely for potential injuries. Accurate descriptions of injuries are vitally important as they may be used later in court.

## **11. Drawings**

Anatomical drawings should be used to show the location and size of the injury, along with written description of the trauma. These should be included in the examination record.

## 12. Photography

Examination facilities should have photographic equipment and established protocols for film development. There may be some victims who decline the use of photographic documentation. Every effort should be made to educate the victim on the importance of this tool. If the victim continues to decline photographs, it is necessary to abide by his/her wishes and make a notation in the record. Photographic documentation provides a clear graphic depiction of the injury or condition. Understanding of the full extent of a victim's injury or condition can be enhanced when a written description or drawing is combined with photographic documentation (photo, video).

## Recommended Photographic Guidelines

- ◇ Obtain victim consent to photograph.
- ◇ Maintain privacy and expose only what is necessary.
- ◇ Use color film. For bites use both color and black and white film.
- ◇ Photograph only one case per roll of film or tape.
- ◇ Photographs may be taken with a 35mm, Polaroid, or digital camera.
- ◇ For purposes of victim identification and location of the injuries or condition, photograph the clothed or gowned victim in full-body, exposing the face.
- ◇ A ruler should be used to indicate the size of the injury. If a ruler is not present, using an object with a universal and constant size may be helpful, such as a quarter.
- ◇ Take photographs with and without the ruler.
- ◇ The photographer should be knowledgeable about the camera flash and focus range. This is usually within 2 to 15 feet.
- ◇ Take orientation photographs of the finding. For example, if the injury is on the left elbow, it is important to take a photograph of the entire extremity or full body.
- ◇ Always take close-up photographs of the injury at a 90 degree angle.
- ◇ An injury should be photographed prior to cleaning and after cleaning.
- ◇ Bruises may appear hours or days after the event. Procedures should be in place to photograph them.
- ◇ Follow-up photographs or video may be necessary to provide information on resolving injuries. Be sure to inform the victim of this option.

Facility protocols should address proper education concerning photography, film development and distribution.

# EXAMINATION PROCEDURES

If the assault occurred within 96 hours prior to the examination, then the forensic exam should be conducted with the Sexual Assault Evidence Collection Kit. These kits may be obtained from the Kentucky State Police or a KSP forensic laboratory.

It is not recommended to utilize the evidence collection kit if it is determined that the assault took place more than 96 hours prior, except in the case of deceased victims. It is unlikely that trace evidence would still be present on the victim. However, evidence may still be gathered by documenting any findings obtained during the examination (such as bruises or lacerations), photographs and bitemark impressions (if appropriate), and statements about the assault made by the victim.

An examination should be performed in all cases of sexual assault, regardless of the length of time that may have elapsed between the time of the assault and the examination. The purpose of this examination is to look for any physical injuries that may have occurred as a result of the assault, and to provide possible testing and/or medications, if indicated, as well as referrals for further medical treatment and counseling when appropriate.

When a sexual assault examination is performed, it is vital that both the medical and evidence collection procedures be integrated at all times. This coordination of procedures is crucial to the successful examination of sexual assault victims. For example, in order to minimize patient trauma, blood drawn for medical purposes should be done at the same time as blood drawn for evidence collection purposes. Also, when evidence specimens are collected from the oral, vaginal, or rectal orifices, cultures for sexually transmitted infections (STI's) can be taken immediately following these collection procedures, if appropriate. If the victim consents to prophylactic antibiotic treatment, cultures for STI's do not need to be obtained unless indicated or requested by the victim.

## ATTENDING PERSONNEL

The only people who should be with the adult victim in the examining room during the examination are the healthcare providers and, with the consent of the victim, a trained support person. Although every effort should be made to limit the number of people in attendance during the examination, there may be instances when a victim requests the presence of a close friend or family member. If at all possible, these requests should be honored. Note: If there is an indication that the assault has taken place in the context of a domestic violence situation and the suspected perpetrator is present, every effort should be made to interview and examine the victim without the suspected perpetrator in the room.

# SPERMATOZOA AND SEMEN

The following brief explanation is offered to clarify the importance of spermatozoa and semen and the role each can play in the forensic analysis of sexual assault evidence.

Semen is composed of cells known as spermatozoa, and fluid called seminal fluid. Historically, medical and law enforcement personnel have placed significant emphasis on the presence of spermatozoa in or on the body or clothing of a sexual assault victim as the most positive indicator of sexual assault.

The finding of spermatozoa is useful for two reasons:

1. It is positive indication that ejaculation occurred and that semen is present.
2. Spermatozoa are a source of Deoxyribonucleic acid (DNA).

Seminal fluid is useful for two purposes:

1. In the absence of spermatozoa, seminal fluid components can be used to identify semen.
2. Seminal fluid is produced in the ejaculate of all males. This fluid may contain epithelial cells or wbc's which can yield a DNA profile.

Many sexual assault offenders are sexually dysfunctional and do not ejaculate during the assault. Additionally, offenders may use a condom, have a low sperm count (frequent with heavy drug or alcohol use), ejaculate somewhere other than in an orifice or on the victim's clothes or body, or fail to ejaculate if the assault is interrupted.

For these reasons, a lack of spermatozoa is not conclusive evidence that an assault did not occur; it only means that spermatozoa may have been destroyed after being deposited or that they may never have been present. The absence of semen means only that no ejaculation occurred, or that various other factors contributed to the absence of detectable amounts of semen in the specimen.

In many cases, the perpetrator will claim that the sexual contact was consensual, commonly known as the "consent defense." In these cases, the finding of semen or sperm is not as important as it is when sexual contact is denied by the perpetrator. In "consent" cases, documentation of the victim's injuries and other trace evidence that establishes the use of force will be of utmost importance.

Hospitals and examination facilities should not conduct seminal testing for forensic purposes. Crime laboratories generally have the legal mandate, appropriate equipment, specialized training and ultra-sensitive techniques that enable them to detect even minute traces of semen and spermatozoa. They are also able to conduct DNA analysis of semen. It is not uncommon for crime laboratories to detect traces of semen despite reports from the hospital of negative test results for spermatozoa and seminal acid phosphatase. Unfortunately, the forensic analyst must then explain in court the apparent contradiction with the hospital laboratory findings.

# SWABS AND SMEARS

Prior to collection of any swabs or smears, any injury to orifice areas should be documented and photographed. If indicated, photographs may also be taken after swabs have been collected.

Depending upon the type of sexual assault, semen may be detected in the mouth, vagina, rectum, or other parts of the body. In cases where a victim insists that contact or penetration involved only one or two orifices (or in some circumstances, no orifices at all), the evidence collection may be curtailed in accordance with the victim's statements and at the discretion of the examiner.

Powderless gloves should be used and changed frequently to avoid cross-contamination of evidence. Additionally, when collecting swabs, the examiner should take special care not to contaminate the individual collections with secretions or matter from other nearby structures. Such contamination may unnecessarily jeopardize the integrity of the evidence and future court proceedings.

If victims must use bathroom facilities prior to the collection of these specimens, they should be cautioned that semen or other evidence may be present in the genital area and to take special care not to wash or wipe until after the evidence has been collected.

**NOTE:** If urine is needed for additional testing, it should be collected at this time.

A hard lead pencil should be used when labeling frosted-end slides to lessen the chance that the labeling information will become smudged.

# EVIDENCE COLLECTION AND HANDLING

## PACKAGING AND LABELING

In order to prevent the degradation of biological fluid stains and the loss of hairs, fibers, or other trace evidence, clothing and other evidence specimens must be air dried and then sealed in paper or cardboard containers. **DO NOT PACKAGE IN PLASTIC.** If the containers are plastic, moisture remaining in the evidence items will be sealed in, making it possible for bacteria to quickly destroy biological evidence. Unlike plastic, paper 'breathes', and allows moisture to escape.

Package each item in the designated envelopes provided. The swabs must be air dried prior to packaging. The use of fans and hair dryers could result in transfer or destruction of evidence and therefore should never be utilized. It is always at the examiner's discretion to collect additional swabs as needed. When this occurs it is necessary to package each item in an envelope or paper bag from the facility and label accordingly.

**EACH ENVELOPE SHOULD BE TAPED CLOSED.** The examiner's initials should be written on the envelope along with the contents, date and time of the evidence collected. The kit is then secured with the provided seal and the information on the front completed.

## CLOTHING EVIDENCE

Frequently, clothing contains important evidence in a case of sexual assault. The reasons for this are twofold:

1. Clothing provides a surface upon which traces of foreign matter may be found, such as the assailant's semen, saliva, blood, hairs and fibers, as well as debris from the crime scene. While foreign matter can be washed or worn off the body of the victim, the same substances often can be found intact on clothing for a considerable length of time following the assault.
2. Drainage of ejaculate from the vaginal or anal cavities may collect on the underpants. If the victim is not wearing any underpants after the assault, it is then necessary to collect the pants, shorts, dress or skirt.

Damaged or torn clothing may be significant. It may be evidence of force and can also provide laboratory standards for comparing trace evidence from the clothing of the victim with trace evidence collected from the suspect and/or the crime scene.

The most common items of clothing collected from victims and submitted to crime laboratories for analysis are underwear, hosiery, blouses, shirts and slacks. There also are instances when coats and even shoes must be collected. Clothing evidence should be packaged individually in a paper bag. Keeping garments separate also prevents cross-contamination.

Prior to the full examination, the examiner must determine if the victim is wearing the same clothing s/he wore during or immediately following the assault. If so, all clothing that appears damaged or has foreign debris, hairs or stains related to the assault should be collected. Prior consent should be obtained from the victim before collecting relevant clothing.

If it is determined that the patient is not wearing the same clothing, the examiner should inquire as to the location of the original clothing. This information should then be given to the investigating officer so that he or she can make arrangements to retrieve the clothing before any potential evidence is destroyed. *THE UNDERWEAR THE PATIENT IS WEARING SHOULD ALWAYS BE COLLECTED AND SEALED IN THE EVIDENCE COLLECTION KIT.*

If the victim has been transported to the treatment facility in an emergency vehicle and has been wrapped in or was resting on a sheet, it may be necessary to collect that sheet also.

### Collection Procedures

To minimize loss of evidence, the victim should disrobe over a clean white sheet or paper that has been laid over a cloth or paper sheet. Surface or trace evidence from clothing may be collected individually, wrapped in white paper, and sealed in a collection envelope. If victims cannot undress on their own, it may be necessary to cut off items of clothing. Care should be taken to avoid cutting through existing rips, tears, or stains. Any moist or wet items should be air dried prior to packaging.

# KENTUCKY STATE POLICE (KSP) SEXUAL ASSAULT EVIDENCE COLLECTION KIT:

## STEP 1. VICTIM'S MEDICAL HISTORY AND ASSAULT INFORMATION FORM

Fill out all information requested on form and have examining physician or SANE sign and date where indicated.

## STEP 2. BLOOD STANDARD

*NOTE: If drug toxicology or Blood Alcohol analysis is indicated, please collect additional blood and urine samples in a separate Kentucky State Police Blood/Urine kit and send to the State Crime Lab.*

Using a lavender top (EDTA) blood collection tube from hospital stock and following normal facility procedures, draw specimen from victim allowing tube to fill to maximum volume. Avoid using an alcohol swab to clean the injection site, as this may affect the blood alcohol level. Use other cleansing methods instead such as betadine or hibiclens.

Remove the lavender top from the tube and draw up blood in a syringe with a large bore needle, or a disposable pipette. Place one to two drops of blood on each of the nine (9) printed circles on the Blood Stain Collection Cards provided.

Allow blood stains to thoroughly **air dry**. Write the victim's name on the front of the Blood Stain Collection Cards and return cards to the Blood Standard Envelope. Seal and fill out all information requested on envelopes. **Do not place blood tube in the envelope or kit.**

## STEP 3. UNDERPANTS BAG

If the victim is not wearing the underpants worn immediately after the reported assault, inform investigating officer so that those underpants can be collected by police personnel. Do not shake out underpants or microscopic evidence will be lost. Do not cut through any existing holes, rips or stains in victim's underpants.

Collect victim's underpants and place in Underpants bag. Seal bag with tape, then fill out all information requested on bag label.

#### **STEP 4. PUBIC HAIR COMBINGS**

(to obtain pubic hair shed by the assailant during the assault)

For forensic purposes, the best method to collect loose material or foreign hairs is by gentle combing. Combing allows recovery of foreign hairs that have been transferred between assailant and victim.

The comb provided in the sexual assault evidence kit should be used to collect any loose hairs or fibers from the pubic area. Remove the paper towel and comb provided in the Pubic Hair Combing envelope. Place the towel under victim's buttocks. Using the comb provided, comb (or have the victim comb) pubic hair in downward strokes so that any loose hairs and/or debris will fall onto the paper towel. Fold towel in manner to retain both comb and any evidence present. Return to Pubic Hair Combing envelope. Seal and fill out all information requested on the envelope. Victims may prefer to do the combing themselves to reduce embarrassment and increase their sense of control. If the paper towel is dropped on the floor or otherwise contaminated in some way than a clean sheet of white paper may be substituted.

Where there is evidence of semen or other matted material on pubic area or head hair, it may be collected by cutting the matted hair. It should be packaged as indicated in the Packaging Section of this document. Collecting a matted hair sample does not suffice as a pubic hair standard. The victim's permission should be obtained prior to cutting any significant amount of hair.

#### **STEP 5. PULLED PUBIC HAIRS**

(For comparison with hairs found at crime scene or on assailant's body)

##### **Hair Standards**

Pulled hair samples are used to compare hairs found on the victim's/suspect's clothing, at the crime scene or in hair combings taken from the victim.

Using a gloved hand, gently tug or "comb" through the pubic area with fingers, or have the victim pull a minimum of 15 full-length hairs from various locations. It is imperative that the root be attached to each hair. Place the 15 hairs with the root in Pulled Pubic Hairs envelope. Seal and fill out all information requested on envelope.



## **STEP 6A. Vaginal Swabs and Smears**

(Collect if vaginal assault reported, if the victim is unable to respond or cannot remember, or at the examiner's discretion.)

Examine the vaginal area for injury or foreign material. Photograph injuries prior to collecting samples. **Do not use any type of lubricant other than water on the speculum. DO NOT STAIN OR CHEMICALLY FIX SMEAR.**

When collecting the vaginal specimens, it is important not to aspirate the vaginal orifice or to dilute the secretions in any way. Do not moisten swabs. Using two (2) swabs simultaneously swab the vaginal vault and prepare a smear slide. Using two (2) more swabs repeat the swabbing procedure.

The examiner must be sure that the frosted-end slide is properly labeled and includes the word "vaginal" to indicate the origin of the specimen. The swabs should be gently rolled onto the glass slide. Again, the slide should not be fixed or stained. The glass slide should be air dried before sealing. Return the slide to holder and fill out all information requested. Return the air dried swabs to the Vaginal Swab and Smear Envelope, seal and fill out all information requested.

After completing the following procedure, if any additional fluid is present in the vaginal vault, collect fluid using supplied swabs. Allow swabs to air dry, then return them to their original wrapper. Mark wrapper "Additional Vaginal" and place the swabs in the Step 6A envelope.

**NOTE:** Immediately following this procedure any medical cultures may be taken, as indicated. The medical cultures are to be processed by the examination facility or separate lab. They are not to be sent with the examination kit to the Crime Lab.

## **STEP 6B. PENILE SWAB**

For the male victim, the presence of saliva on the penis could indicate that oral-genital contact was made; the presence of vaginal secretions could help corroborate that the penis was introduced into a vaginal orifice; and feces or lubricants might be found if rectal penetration occurred.

Use distilled water to slightly moisten the swabs provided, and thoroughly swab the glans and shaft of the victim's penis. If the victim is not circumcised, it is important that the examiner pulls back the foreskin and swab that area as well. **Do not insert swab into urethra.** Allow swabs to air dry. Return swabs to Penile Swabs Envelope. Seal and fill out all information requested on envelope. All outer areas of the penis and scrotum where contact is suspected should be swabbed.

**NOTE:** Medical cultures may be obtained after collecting forensic swabs, as indicated.

## STEP 7. OTHER EVIDENCE

The envelopes are provided in the kit for the collection of the various specimens listed. **If more than two of the following procedures are required, please use additional swabs, envelopes or paper bags from facility stock.** Allow swabs to air dry, place in an additional envelope, and mark the envelope accordingly (example: "Oral Swabs, Victim's Name, date and Time Collected and Collected By".) Do not put swabs from different sources in the same envelope.

### 7A. Anal Swabs

(Collect only if anal-genital assault reported, if the victim is unable to respond or cannot remember, or at the examiner's discretion.)

It is not uncommon for a victim to be reluctant to report that s/he has been anally penetrated. In addition, the victim may be unaware that anal penetration occurred. S/He may not recall the details of the assault or may only be able to describe that s/he has pain 'down there.'

Examine the anus prior to collecting swabs. Using a Wood's Lamp to examine the victim in knee-chest position may be helpful to indicate possible dried secretions in the anal region. Photograph injuries as indicated.

Using two (2) swabs simultaneously swab the anus. Using the two (2) additional swabs provided, repeat the swabbing procedure. Allow swabs to air dry, then return them to the Other Evidence Envelope. Seal and fill out all information requested on the envelope, then check off "Anal Swabs" on the envelope. If necessary the swabs may be moistened slightly with water. The presence of stool on the swab increases the difficulty of determining the presence of semen.

At this time, any additional medical examinations or hospital tests involving the rectum should be conducted.

### 7B. Oral Swabs

(Collect only if oral-genital assault reported, if the victim is unable to respond or can not remember, or at the examiner's discretion.)

Examine the entire oral cavity and the upper and lower lips prior to collecting swabs. Photograph if indicated and document on corresponding chart. The oral samples can be as important as the vaginal or anal samples. The purpose of this test is to recover seminal fluid from recesses in the oral cavity where traces of semen could survive. **THIS TEST SHOULD BE DONE FIRST, SO THAT THE VICTIM CAN RINSE OUT HIS/HER MOUTH AS SOON AS POSSIBLE.** Such a practice will reduce a significant source of unnecessary victim distress.

Using two swabs simultaneously, carefully swab the buccal area and the gum line. Using two additional swabs provided, repeat the swabbing procedure. Attention should be paid to those areas of the mouth, such as between the upper and lower lip and gum, where seminal fluid might remain for the longest amount of time.

Allow swabs to air dry, then return them to the Other Evidence Envelope. Seal and fill out all information requested on the envelope, then check off "Oral Swabs" on the envelope.

The patient should not smoke, eat, or drink until after the buccal swabs (SEE step 10) are collected.

## 7C. Dried Secretions Swabs

(for dried blood, semen, or saliva found on victim's body)

### **Dried Fluid**

It is important that the SANE or Physician examine the victim's body for evidence of foreign matter, and that a swab be taken for each separate secretion. Saliva, like semen, demonstrates DNA profiles characteristic of its donor. A hand-held ultraviolet light (Wood's lamp) may be used as it is capable of fluorescing semen, saliva, certain fibers as well as other substances such as detergents. The examiner should resist the temptation to document findings such as 'semen' and instead document an objective description of the finding such as 'thin white drainage.'

### **Bite Mark Collection Technique:**

Proteins and nucleic acids found in bitemarks are subject to destruction and contamination, so proper collection is imperative. Take a sterile cotton swab, lightly moistened with sterile distilled water and rub the tip over the bitemark in a circular motion with moderate pressure, avoiding obvious victim blood. Air dry the swab for 45 minutes and store in a paper envelope or box that allows air circulation. Immediately afterward, rub the area with a second dry cotton swab with lighter pressure to absorb the residual wetness like a sponge. Repeat the drying and storing procedure. Since both swabs are from the same source, it is not necessary to label which was first as they do not have to be differentiated from one another and can be stored together in a single labeled evidence container.

### **Other Dried Secretion Collection:**

If secretions, such as dried or moist fluid are observed on the victim's body during the examination, the material should be collected by swabbing each area. A different swab should be used for every secretion collected from each location on the body.

Dried secretions are collected by moistening the two (2) swabs slightly with distilled water, then thoroughly swabbing the suspected area on the victim's body. Allow swabs to air dry, then return them to the Other Evidence envelope. Seal and fill out all information requested on the envelope, then check off "Dried Secretions" on the envelope and note location where collected on the anatomical drawings. Allow the swabs to dry completely prior to packaging.

## 7D. Female external genital swabs

Examine external genitalia and for injury or foreign material. Photograph prior to collecting samples. A Woods Lamp or other ultraviolet light source is recommended to use with the victim in the lithotomy position in the event secretions were missed during the inspection of the body. Collect foreign materials and dried secretions. **Lightly** moisten two (2) swabs with distilled water, then thoroughly swab the external genitalia. Allow swabs to air dry, then return them to the Other Evidence Envelope. Seal and fill out all information requested on envelope, then check off "Female External Genitalia" on the envelope.

## STEP 8. Control Swabs

If swabs used in any Step collection were moistened with water or saline moisten the two control swabs with the same fluid and then allow them to air dry. Return swabs to Control Swabs Envelope. Seal and fill out all information requested on envelope.

## **STEP 9.**

### **Pulled Head Hair**

(For comparison with hair found at crime scene or on assailant's body)

**Pull**, (or have victim pull) **do not cut**, a minimum of 15 full-length head hairs with the roots attached, 3 from each of the following scalp locations: center, front, back, left side and right side and place in Pulled Head hairs envelope. Seal and fill out all information requested on envelope.

## **STEP 10 .**

### **Known Buccal Standard**

Buccal standard swabs collect the victim's epithelial cells for future DNA testing if necessary. The buccal swabs are a standard and are not used for the detection of seminal fluid.

The victim should not have anything to drink, eat or smoke for a minimum of 15 minutes prior to Known Buccal Standard collection. If oral swabs have been previously collected, allow victim to rinse out their mouth, and then wait 15 minutes before collecting the buccal standards.

Using two swabs, carefully swab the buccal area. Allow swabs to air dry. Return swabs to Known Buccal Standard Envelope. Seal and fill out all information requested on envelope.

## **STEP 11.**

### **Anatomical Drawings**

Using appropriate set of anatomical drawings, note findings on form, then sign and date the form where indicated.

## **STEP 12.**

**Instruct investigating officer to fill out all information requested on form and return completed form to the kit.**

## OTHER COLLECTION AND DOCUMENTATION:

### Fingernails

The purpose of collecting fingernail clippings is to collect potentially useful evidence of cross-transfer. Victims should be asked whether or not they scratched the assailant's face, body or clothing or surrounding objects. If skin or other materials are observed under the victim's fingernails, the nails should be clipped. **DO NOT SCRAPE.** It is important that clippings should be made for each hand over a separate piece of paper. Each paper holding the clippings should then be folded and sealed. The examiner should complete the labeling information for each envelope making certain to differentiate between "left" and "right" hand on the labels. If a victim has a false nail that has fallen off during the assault it is important photograph, document and notify the law enforcement investigator so that it may be collected. Document missing or torn nails and collect those separately from other intact nails.

### Debris

Debris or foreign material on the body should be collected. Collect the evidence and place in a paper envelope. Take special care to note on the documentation record where and what was collected. Use a different envelope for different evidence. If an item is found that appears to be a hair unlike the victims it is important for the examiner to resist the temptation to document it as a hair. Instead use objective terms such as a foreign fiber or debris. It is not within the examiner's scope of practice to make these types of inferences.

### Bruises

Findings such as patterned injuries or bruises should be photographed and documented on the corresponding body chart. Examiners should never attempt to date a bruise based on its color or appearance. In addition the examiner should resist the temptation to presume what may have caused the injury and instead use quotes from the victim.

### Condoms/Menstrual Pads and Tampons

If a condom is collected from a victim, the contents should be collected by swabbing the inside with four (4) swabs. Allow the swabs to dry completely and package separately in paper and label. Using four (4) more swabs slightly moistened with water, swab the outside of the condom. Latex in the condom may make it difficult to dry completely; however, it should be packaged dry in paper and sealed and labeled accordingly. Even though the evidence left in the condom may deteriorate it is still important to collect the condom. (If the condom cannot be swabbed, it must be frozen separately from the kit and chain of evidence must be maintained)

Menstrual Pads and tampons should also be collected when indicated. They should be air dried completely, packaged in a paper envelope, sealed and labeled accordingly.

# EVIDENCE INTEGRITY or CHAIN OF CUSTODY

The custody of any evidence collection kit and the specimens it contains must be accounted for from the moment of collection until the moment it is introduced in court as evidence. This is imperative in order to maintain the legally necessary 'chain of evidence', sometimes called 'chain of custody', or 'chain of possession'.

Each law enforcement jurisdiction has different policies, procedures and forms that may be used for recording chain of evidence. It is recommended that each facility follow the investigating law enforcement's protocol for maintaining chain of evidence. SART Programs can be very useful in establishing these procedures. Regardless, once the kit has been opened, any of the evidence collected must never be left unattended by the SANE, physician or assisting personnel. If a situation occurs in which the individual collecting evidence must leave the room, then another authorized individual must assume responsibility for the chain of custody and document appropriately the transfer of custody. This authorized individual may include another staff member or an officer, but should not be the victim advocate.

Seal kit box with the Kit Box Seal provided. Fill out all information requested on the seal, then the examiner and investigating officer should initial where sealed. There is no need to have the victim advocate sign and initial the seal even though they may have been present during the entire exam.

Return kit and all pink copies of forms to investigating officer. If the officer is unable to immediately assume responsibility of the kit and other evidence then facilities shall have a policy and procedure for storage of the evidence in a designated secure area. It is strongly recommended that all chain of custody policies and procedures are discussed with law enforcement and prosecutorial personnel before they are established. Only a law enforcement official or duly authorized agent should transfer physical evidence from facilities to the crime lab for analysis.

# ANALYSIS & DISTRIBUTION OF SPECIMENS

All medical and forensic specimens collected during the sexual assault examination must be kept separate both in terms of collection and processing.

## **Medical Purposes:**

Specimens required only for medical purposes should be kept and processed at the examining hospital.

## **Forensic Analysis:**

Specimens required for forensic analysis should be collected using the sexual assault examination kit, and a separate KSP Blood/Urine Collection Kit for drug and alcohol analysis, if indicated.

The clinical laboratories of the hospital should not accept or analyze forensic specimens.

# POST-EXAMINATION INFORMATION

## AFTER CARE INFORMATION FORM

The discussion of follow-up services for both medical and counseling purposes is an important treatment aspect for sexual assault victims. Before the victim leaves the hospital, an After Care Information Form should be completed. *See page 38 for an example of an After Care Information Form.* The type and dosage of any medication prescribed or administered should be recorded on the first portion of this form.

Victims should be encouraged to obtain follow-up tests for possible pregnancy, sexually transmitted infection, and urinary tract or other infections, within two weeks after the initial hospital visit. It is vital that both written and verbal information be provided, including the locations of public health clinics or referrals to private physicians for medical follow-up if the victim does not wish to return to the treating hospital. Victim advocates can be quite helpful in explaining the need for a return visit and what types of tests should be performed.

The second portion of the victim information form should be used to record follow-up counseling information. While the victim should be encouraged to seek follow-up counseling, the decision to do so must be voluntary. Some victims may be reluctant to talk with a counselor; however, they are more likely to participate if counseling has been coordinated with the examination process. A referral to a victim advocate, social worker, or psychologist in the community who is known to provide quality service should also be made.

The original copy of the victim information form should be given to the victim and the second copy retained for the hospital's records.

## FOLLOW-UP CONTACT

Any further contact with sexual assault victims must be carried out in a very discreet manner. In an effort to avoid any breach of confidentiality or unnecessary embarrassment, it is recommended that victims be asked, prior to leaving the hospital, whether or not they can be contacted about follow-up services. If so, they should be asked to provide an appropriate mailing address and/or telephone number where they can be reached. It is the responsibility of the victim advocate to provide follow-up contact and services.

## INFORMATIONAL BROCHURES

Many victim advocacy agencies have developed informational brochures about sexual assault and its aftermath. These brochures can be helpful in explaining to victims some of the common problems they may encounter, such as disturbances in sleeping or eating patterns, flashbacks of the attack, and post-traumatic stress syndrome. They also can provide reassurance to the victim that sexual assault victims are not responsible for the assault.

In addition, brochures should contain information about local or state resources such as victim compensation programs, counseling services, and information on home security and personal safety. If at all possible, arrangements should be made to provide a copy of such publications to sexual assault victims and their families when they leave the hospital. Contact your local rape crisis center to obtain appropriate brochures.

## **CLEAN-UP/CHANGE OF CLOTHING**

Many victims want to wash after the examination and evidence collection process. If possible, the hospital should provide the basics required, such as mouth rinse, soap and a towel.

If garments have been collected for evidence purposes and no additional clothing is available, arrangements should be made to ensure that the victim has clothing prior to leaving the hospital. In instances where police officers transport victims from their homes to the hospital, officers should be instructed to advise victims to bring an additional set of clothing with them in the event any garments are collected. Some victims may wish to have a family member or friend contacted to provide substitute clothing. When the victim has no available personal clothing, necessary items could be supplied by hospital volunteer organizations and/or local victim assistance agencies.

## **TRANSPORTATION**

Finally, transportation should be arranged when the victim is ready to leave the hospital. In some cases this will be provided by a family member, friend or victim advocate, who may have been called to the hospital for support. In other cases, transportation can be provided by the local police department as a community service.



# MEDICAL CONSIDERATIONS AND TESTING

## TOXICOLOGY BLOOD/URINE SCREEN

Blood/urine screens for the purpose of determining toxicology should be done in the following situations in cases of sexual assault:

1. If the victim or accompanying person (such as a family member, friend or police officer), states that the victim was drugged by the assailant.
2. If, in the opinion of the examiner, the victim's medical condition appears to warrant toxicology screening for optimal patient care.
3. If the victim reports unexplained loss of consciousness or reports "missing time."
4. Toxicology screening is requested by law enforcement officials.

## KSP Blood/Urine Collection Kit for Alcohol /Drug Determinations

**Purpose:** This kit is designed to contain blood and urine specimens obtained from investigations in which an alcohol and/or drug screen is needed.

The following steps should be followed:

1. Fill in the "Investigating Officer's Report" completely and legibly.
2. Witness the collection of samples.
  - A. For Blood Alcohol Only: Fill only the gray-top Blood Tube with blood. Collect pursuant to Administrative Regulation (500 KAR-Chapter 8).
  - B. For Drug Screen Only: Fill all three Blood Tubes with blood and both Urine Specimen Bottles with urine. Collect pursuant to Administrative Regulation (500 KAR- Chapter 8).
  - C. For urine Alcohol Only: Fill Urine Specimen Bottle A with urine, thirty (30) minutes later fill Urine Specimen Bottle B with a new urine specimen. Collect pursuant to Administrative Regulation (500 KAR-Chapter 8).
3. Return filled blood tube(s) to styrofoam holder.
4. Place styrofoam and filled plastic urine bottle(s) in ziplock bag and return ziplock bag to kit box. (Do not remove the liquid absorbing sheet from bag).
5. Reassemble kit box and affix red evidence seals where indicated on box top. Initial over the edges of the tape.
6. Submit the Blood/Urine Collection Kit to the officer, who will then submit it to forensic laboratory along with the Sexual Assault Evidence Collection Kit.

# SEXUAL ASSAULT AND SEXUALLY TRANSMITTED INFECTIONS

## Adults and adolescents

The recommendations in this report are limited to the identification and treatment of sexually transmitted infections and conditions commonly identified in the management of such infections. The documentation of findings and collection of nonmicrobiologic specimens for forensic purposes and the management of potential pregnancy or physical and psychological trauma are not included. Among sexually active adults, the identification of sexually transmitted infections after an assault is usually more important for the psychological and medical management of the patient than for legal purposes, because the infection could have been acquired before the assault.

Trichomoniasis, Bacterial Vaginosis (BV), chlamydia, and gonorrhea are the most frequently diagnosed infections among women who have been sexually assaulted. Because the prevalence of these STI's is substantial among sexually active women, the presence of these infections after an assault does not necessarily signify acquisition during the assault. Chlamydial and gonococcal infections in women are of special concern because of the possibility of ascending infection. In addition, HBV infection, if transmitted to a woman during an assault, can be prevented by postexposure administration of hepatitis B vaccine. Facilities and examiners should consult the current CDC guidelines on the evaluation and treatment of sexually transmitted infections.

## EVALUATION FOR SEXUALLY TRANSMITTED INFECTIONS

### Initial Examination

It is no longer mandated by Kentucky regulation to automatically test for STI's during the sexual assault examination, unless indicated or per victim request. Therefore, if testing is indicated or requested, the initial examination should include the following procedures:

- ◇ Cultures for *N. gonorrhea* and *C. trachomatis* collected from any sites of penetration or attempted penetration.
- ◇ If chlamydial culture is not available, nonculture tests, particularly the nucleic acid amplification tests, are an acceptable substitute. Nucleic acid amplification tests offer advantages of increased sensitivity if confirmation is available. If a nonculture test is used, a positive test result should be verified with a second test based on a different diagnostic principle. EIA and direct fluorescent antibody are not acceptable alternatives, because false-negative test results occur more often with these nonculture tests, and false-positive test results may occur.
- ◇ Wet mount and culture of a vaginal swab specimen for *T. vaginalis* infection. If vaginal discharge or malodor is evident, the wet mount also should be examined for evidence of BV and yeast infection.
- ◇ Collection of a serum sample for immediate evaluation for HIV, hepatitis B, and syphilis (see Prophylaxis, Risk for Acquiring HIV Infection and Follow-Up Examination 12 Weeks After Assault).

## Prophylaxis

Many experts recommend routine preventive therapy after a sexual assault. Most victims benefit from prophylaxis because they may not follow-up later to be tested. In addition, they may be reassured if offered treatment or prophylaxis for possible infection at the time of the exam. The following prophylactic regimen is suggested as preventive therapy:

- ◇ Postexposure hepatitis B vaccination (without HBIG) should adequately protect against HBV. Hepatitis B vaccine should be administered to victims of sexual assault at the time of the initial examination. Follow-up doses of vaccine should be administered 1-2 and 4-6 months after the first dose.
- ◇ An empiric antimicrobial regimen for chlamydia, gonorrhea, trichomonas, and BV should be administered.

Due to continuing research and discussion of the most effective treatment of sexually transmitted infections specific to sexual assault victims, treatment regimens have not been included in this report. Instead, it is suggested that the reader consult the CDC guidelines for their latest treatment recommendations as well as current professional literature specific to each STI.

## Follow-Up Examinations

Although it is often difficult for persons to comply with follow-up examinations after an assault, such examinations are recommended to detect new infections acquired during or after the assault, complete hepatitis B immunization, if indicated; and complete counseling and treatment for other STI's. If prophylaxis is given at the initial exam, cultures are typically unnecessary at follow-up, however an examination to check for injury healing is recommended.

## Other Considerations

At the initial examination and, if indicated, at follow-up examinations, victims should be counseled regarding the following:

- ◇ Symptoms of STIs and the need for immediate examination if symptoms occur.
- ◇ Abstinence from sexual intercourse until STI prophylactic treatment is completed.

# EMERGENCY CONTRACEPTION

The female victim of child-bearing age and who has not had a hysterectomy or permanent sterilization is at risk for becoming pregnant as a result of the assault. Information should be given to the victim about the risk as well as medications that can be taken to help prevent pregnancy. If the victim wishes to receive emergency contraceptive medication, and in compliance with facility policies and procedures, the examiner may administer an emergency contraceptive regimen to the victim. The regimen is most effective when given within 72 hours of unprotected intercourse, and a pregnancy test must be done before administering any medications to determine if there is a pre-existing pregnancy.

There are several choices available for emergency contraception. The SANE and/or physician should consult with the current drug index when deciding which medication and dosage to use. It is also recommended to administer an anti-emetic medication prior to giving the emergency contraceptive, as severe nausea is a common side effect of these medications.

It is also important to note on the discharge instructions which medications, if any, were given to the victim, and precise instructions on how to finish the regimen, if indicated.

# RISK FOR ACQUIRING HIV INFECTION

Although HIV-antibody seroconversion has been reported among persons whose only known risk factor was sexual assault or sexual abuse, the risk for acquiring HIV infection through sexual assault is low. The overall probability of HIV transmission from an HIV-infected person during a single act of intercourse depends on many factors. These factors may include the type of sexual intercourse (i.e., oral, vaginal, or anal); presence of oral, vaginal or anal trauma; site of exposure to ejaculate; viral load in ejaculate; and presence of an STI.

In certain circumstances, the likelihood of HIV transmission also may be affected by post exposure therapy for HIV with antiretroviral agents. Post exposure therapy with zidovudine has been associated with a reduced risk for HIV infection in a study of health-care workers who had percutaneous exposures to HIV-infected blood. On the basis of these results and the biologic plausibility of the effectiveness of antiretroviral agents in preventing infection, post exposure therapy has been recommended for health-care workers who have percutaneous exposures to HIV. However, whether these findings can be extrapolated to other HIV-exposure situations, including sexual assault, is unknown. A recommendation cannot be made, on the basis of available information, regarding the appropriateness of post exposure therapy after sexual exposure to HIV.

Healthcare providers who consider offering post exposure therapy should take into account the likelihood of exposure to HIV, the potential benefits and risks of such therapy, and the interval between the exposure and initiation of therapy. Because timely determination of the HIV-infection status of the assailant is not possible in many sexual assaults, the healthcare provider should assess the nature of the assault, any available information about HIV-risk behaviors exhibited by the perpetrator, if known, such as high-risk sexual practices and history of drug use, and the local epidemiology of HIV/AIDS. If antiretroviral postexposure prophylaxis is offered, the following information should be discussed with the victim: a) the unknown efficacy and known toxicities of antiretrovirals, b) the critical need for frequent

dosing of medications, c) the close follow-up that is necessary, d) the importance of strict compliance with the recommended therapy, and e) the necessity of immediate initiation of treatment for maximal likelihood of effectiveness. If the victim decides to take post exposure therapy, clinical management of the victim should be implemented according to the guidelines for occupational mucous membrane exposure.

### **Guidelines of Testing for HIV**

1. Test victim of violent, anal, or multiple sexual assault.
2. Test victim if the assailant is not identified or cannot be tested.
3. Test victim with evidence of other STI's.
4. Test victim if abuser is known to be in a high risk group.
5. Test victim if, after counseling, parent or mature minor victim is insistent on testing.

It is obvious that great care must be taken in responding to a victim's inquiry about contracting HIV. As always, pertinent medical information should be provided. It is suggested that, trained sexual assault counselors should be utilized to assist hospital personnel with this task.

If a victim is not tested for HIV, but asks about the risk of contracting HIV/AIDS:

1. Explain that the risk is low, but it depends upon the history of the assailant;
2. Refer victims to Rape Crisis Centers for more information and counseling (see Appendix D, page 1).
3. Refer victims to local health department or specialty clinics for testing and follow-up.

### **INFORMATION REGARDING HIV(AIDS)**

Victims of sexual assault can be exposed to several types of sexually transmitted diseases, including AIDS. While the likelihood of contracting AIDS through sexual assault is minimal, the following resources are available if you have any questions or would like more information:

U. S. Public Health Service  
AIDS Hotline  
(800) 342-AIDS

Kentucky AIDS Project  
Cabinet for Health and Human Services  
(502) 564-4804

## **ACCESS TO MEDICAL FACILITY AND RECORDS**

Any health care facility or health service licensed by the Cabinet for Human Resources should be prepared to allow access to the facility at any reasonable time by a representative of the Cabinet for Families and Children and law enforcement for the purpose of carrying out their investigative responsibilities as mandated by KRS 620.030(3), and KRS 209.030(5), KRS 620.050, and KRS 431.600.

The custodian of medical records may also receive court subpoenas for records that may be submitted as evidence in court proceedings. Federal law prohibits release of medical records regarding alcohol or drug abuse therapy without a court order, which is also needed to release information on HIV positive tests concerning the victim.

# OTHER ADDRESSES & TELEPHONE NUMBERS FOR HELP AND ASSISTANCE FOR CRIME VICTIMS

## **National**

National Child Abuse Hotline 1-800-422-4453

National Domestic Violence Hotline 1-800-799-7233

National Organization for Victims Assistance 1-202-393-6682

National Sexual Violence Resource Center 1-877-739-3895

National Victim Resource Center 1-800-627-6872

Rape, Abuse, & Incest National Network (RAINN) Hotline 1-800-656-HOPE

## **Federal**

United States Attorney's Office

Victim - Witness Coordinator

Western District of Kentucky (502) 582-6935

Eastern District of Kentucky (859) 233-2661

## **State of Kentucky**

Office of the Attorney General

Victims Advocacy Division

1025 Capital Center Drive, Frankfort, Kentucky 40601-8204

(502) 696-5312 or 1-800-372-2551

Office of the Attorney General

Rape Victim Assistance Program

1024 Capital Center Drive, Frankfort, Kentucky 40601-8204

(502) 696-5500

Crime Victims Compensation Board

115 Myrtle Avenue, Frankfort, Kentucky 40601

(502) 573-2290 or 800-469-2120

Cabinet for Families and Children

275 East Main Street, Frankfort, Kentucky 40621:

Adult Services/Abuse Reports (502) 564-2136 or 1-800-752-6200

Aging Services (502) 564-6930 or (502) 564-7372

Child Abuse Reports 1-800-752-6200

Family Resource/Youth Services Center (502) 564-4986

Family Services (502) 564-6852 or (502) 564-2136

Youth Services (502) 564-2738

Office of Inspector General

(Day Care and Nursing Homes)

Licensing and Regulations

(502) 564-2800

## State of Kentucky (con't)

Nursing Home Ombudsman  
1-800-372-2991

Kentucky State Police Headquarters - Frankfort  
Missing and Exploited Children Information Center (502) 227-8708  
Other Criminal Emergencies Only 1-800-222-5555 or locally 911

YWCA Spouse Abuse 24-Hour Crisis Line  
1-800-799-7233 (nationwide)

Kentucky Council on Child Abuse  
Lexington, Kentucky  
(859) 276-1299 or 1-800-432-9251

Kentucky Association of Sexual Assault Programs  
(502) 226-2704  
[www.kasap.org](http://www.kasap.org)

Kentucky Domestic Violence Association  
(502) 695-2444  
[www.kdva.org](http://www.kdva.org)

## Other

For other assistance similar to the above list also check the local telephone directory for your area. Helpful contacts may include the local County or Commonwealth Attorney's Office, the local agency of the State Cabinet for Families and Children, and the local health department.

For local emergency assistance call 911 or the Sheriff's Office, the City or County Police Department, or the Kentucky State Police in the area or 1-800-222-5555 for emergency service from the State Police.

### **A Victim Assistance Directory that covers all of Kentucky may be obtained by contacting:**

Justice Cabinet  
Attention: Victims of Crime Program  
Bush Building, Second Floor  
403 Wapping Street  
Frankfort, Kentucky 40601  
(502) 564-7554 or (502) 564-3251

# AFTER-CARE INFORMATION FOR THE SEXUAL ASSAULT SURVIVOR

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Facility: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Examiner: \_\_\_\_\_ Advocate: \_\_\_\_\_  
Law Enforcement Case Number: \_\_\_\_\_

A. You have been tested for:

- |                                                                                       |                                       |                                      |
|---------------------------------------------------------------------------------------|---------------------------------------|--------------------------------------|
| <input type="checkbox"/> Legal Evidence                                               | <input type="checkbox"/> Chlamydia    | <input type="checkbox"/> HIV         |
| <input type="checkbox"/> Gonorrhea                                                    | <input type="checkbox"/> T. Vaginalis | <input type="checkbox"/> Hepatitis B |
| <input type="checkbox"/> C. trachamonis                                               | <input type="checkbox"/> BV and Yeast | <input type="checkbox"/> Syphilis    |
| <input type="checkbox"/> Pregnancy: Your pregnancy test is negative/positive (circle) |                                       |                                      |

B. You were given these medications to prevent Sexually Tansmitted Infections:

Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_  
Medication: \_\_\_\_\_ given for \_\_\_\_\_

C. To prevent pregnancy from this assault you were given postcoitalcontraception:

- Medication \_\_\_\_\_ Instructions \_\_\_\_\_
- You were not offered postcoitalcontraception because:  
 you are pregnant       you did not want it  
other \_\_\_\_\_

D. Additional treatments / perscriptions you were given include:

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_
- 5) \_\_\_\_\_
- 6) \_\_\_\_\_



E. We recommend you obtain the following testing/care:

Note: Testing for sexually transmitted infections can be obtained free at the Board of Health.

1. Gonorrhea, Syphilis, Chlamydia, Hepatitis B, HIV, and C. Trichomonas within :

2 weeks at \_\_\_\_\_ facility. Phone: \_\_\_\_\_

Other \_\_\_\_\_

2. Pregnancy within 2 weeks at \_\_\_\_\_ facility. Phone: \_\_\_\_\_

3. Follow-up Medical Treatment for: \_\_\_\_\_  
at \_\_\_\_\_ facility. Phone: \_\_\_\_\_

**IF AT ANY TIME IN THE NEXT 48 HOURS YOU EXPERIENCE SEVERE PAIN, ONGOING NAUSEA/VOMITING, OR ANY OTHER UNUSUAL MEDICAL COMPLAINTS, PLEASE SEE YOUR PRIMARY HEALTH CARE PROVIDER IMMEDIATELY OR GO TO THE NEAREST EMERGENCY DEPARTMENT.**

F. Other important names and numbers:

**Rape Crisis Center** (Advocate/Counseling): \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**Victim Assistance/ Advocate** : \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**Detectives Name:** \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Other: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Other: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**For further information about free and confidential testing and HIV:**

Kentucky AIDS Project: 1 (502) 564-4804

U. S. Public Health Services AIDS Hotline: 1 (800) 342-AIDS

or \_\_\_\_\_

**Crime Victims Compensation:**

The state of Kentucky has a fund which may cover expenses incurred due to a sexual assault. For questions concerning this fund please call or write:

Crime Victims Compensation Board

115 Myrtle Avenue, Frankfort, Kentucky 40601

(502) 564-2290

G. We Discussed:

Caring for your injuries \_\_\_\_\_

Feelings that you may have that are common after sexual assault

Infections (sexually transmitted) that you may have received and what you can do so your partner does not become infected. We recommend no sexual intercourse until a follow-up examination has been completed by \_\_\_\_\_

You have been given information on medication.

Other \_\_\_\_\_

# 502 KAR 12:010. Sexual assault medical protocol .

**RELATES TO: KRS 216B.400**

**STATUTORY AUTHORITY: KRS 15A.160, 216B.400(2)**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 216B.400(2) authorize the cabinet to promulgate administrative regulations developing a statewide medical protocol for sexual assault examinations. This administrative regulation establishes the procedures to be followed by medical staff before, during, and after the examination of a victim of a sexual assault.

## **Section 1. Definitions.**

- (1) "*Facility*" means a hospital emergency room, or any facility established for the purpose of providing medical care and collecting forensic evidence for victims or sexual assault.
- (2) "*Rape crisis center advocate*" means a victim advocate who:
  - (a) Has met the requirements of KRS 421.570; and
  - (b) Works for a rape crisis center regulated by the Cabinet for Health Services, pursuant to KRS 210.410, 210.450, and 908 KAR 2:070.
- (3) "*Victim*" means a person who reports or has suffered direct, threatened, or attempted physical or emotional harm from the commission or attempted commission of:
  - (a) A sexual offense, pursuant to KRS Chapter 510;
  - (b) Incest, pursuant to KRS 530.020;
  - (c) An assault or related offense, pursuant to KRS Chapter 508;
  - (d) An offense relating to:
    1. The use of a minor in a sexual performance, pursuant to KRS 531.310;
    2. Promoting a sexual performance by a minor, pursuant to KRS 531.320; or
    3. An unlawful transaction with a minor, pursuant to KRS 530.064, 530.065, or 530.070; or
  - (e) An offense that endangered the welfare of an incompetent person, pursuant to KRS 530.080.

## **Section 2. Preforensic Examination Procedure.**

When a victim reporting one (1) of the designated offenses described in Section 1 of this administrative regulation arrives at a health facility, the following process shall be completed and documented by the appropriate staff at the facility prior to conducting the forensic examination:

- (1) Contact the rape crisis center to inform the on call advocate that a victim has arrived at the health facility for an examination;
- (2) Ask if the victim wishes to have a rape crisis center advocate present for the examination.
- (3) Inform the victim that all statements made during the interview, and the evidence collection process, to physicians, nurses, other hospital personnel, law enforcement officers or to rape crisis center advocates are not privileged and may be disclosed;
- (4) Provide a detailed explanation of the forensic examination, the reasons for conducting the exam and the effect on a criminal prosecution if a forensic examination is not performed;
- (5) Advise the victim that photographs and other documentation may be used as evidence and that the photographs may include the genitalia;
- (6) Advise the victim that the forensic examination shall be conducted free of charge, but costs related to medical treatment may be incurred;
- (7) Inform the victim that consent for the forensic evidence collection process may be withdrawn at any time during the examination;

- (8) Inform the victim of the need for a physical examination due to the risk of sexually transmitted diseases, pregnancy, injury or other medical problems whether or not the victim chooses to have the evidence collected;
- (9) Obtain documented consent from the victim prior to conducting the forensic rape examination.

### **Section 3. The Forensic Examination.**

- (1) A physical examination may be conducted for the collection of evidence in all cases of sexual assault, regardless of the length of time which may have elapsed between the time of the assault and the examination itself;
- (2) If the sexual assault occurred within ninety-six (96) hours prior to the forensic examination, a Kentucky State Police Sexual Assault Evidence Collection Kit shall be used. This kit consists of:
  - (a) Instructions;
  - (b) Evidence envelope;
  - (c) Comb; and
  - (d) Swabs;
- (3) Personnel in attendance during the forensic examination shall be limited to the following persons:
  - (a) Examining physician or sexual assault nurse examiner, as defined in KRS 314.011(14);
  - (b) Attending nurse;
  - (c) Rape crisis center advocate; and
  - (d) Other persons who are:
    - 1. Dictated by the health needs of the victim; or
    - 2. Requested by the victim;
- (4) Photographs including photographs of the genitalia may be taken if the appropriate equipment is available at the health facility and the victim has consented to having photographs taken;
- (5) The following types of evidence may be collected during the examination:
  - (a) Hairs from the head or pubic region;
  - (b) Fingernail cuttings;
  - (c) Clothing fibers, or other trace evidence;
  - (d) Bodily fluids, including:
    - 1. Semen;
    - 2. Blood; and
    - 3. Saliva;
  - (e) Clothing; and
  - (f) Other evidence that could be presented at a trial;
- (6) Evidence shall not be collected if the victim is unconscious unless the collection is consistent with appropriate and necessary medical treatment;
- (7) The collection of evidence shall cease immediately if the victim dies during the process.
- (8) The coroner shall be contacted if the victim dies during the collection of evidence process and the evidence collected up to that time shall be delivered to the coroner or the designee of the coroner;
- (9) The coroner shall be notified in accordance with the law and evidence shall not be collected if the victim is deceased upon arrival.

#### **Section 4. Postforensic Examination Procedures.**

At the conclusion of the forensic examination the appropriate personnel at the health facility shall provide the victim with:

- (1) Information regarding follow-up procedures and appointments concerning:
  - (a) Sexually transmitted diseases;
  - (b) Pregnancy;
  - (c) Urinary tract or other infections; and
  - (d) Similar assault related health conditions;
- (2) Information regarding the availability of follow-up counseling and support services available from a rape crisis center or other mental health agency;
- (3) Information from the law enforcement officer regarding who to contact about the prosecution of the offense;
- (4) A garment or other appropriate clothing to wear in leaving the hospital, or provide assistance in obtaining other personal clothing;
- (5) Information about:
  - (a) The Crime Victim's Compensation Board, as addressed in KRS Chapter 346; and
  - (b) The following administrative regulations providing aid to a crime victim:
    1. 107 KAR 1:005;
    2. 107 KAR 1:010;
    3. 107 KAR 1:015;
    4. 107 KAR 1:025; and
    5. 107 KAR 1:040.

(25 Ky.R. 2479; Am. 26 Ky.R. 378; eff. 8-16-99.)