



FIFTH EDITION

**North Dakota Sexual Assault
Evidence Collection Protocol**

DECEMBER 2014



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Sexual assault is a serious crime in North Dakota. There are often many contributing factors, including domestic violence, drugs and/or alcohol abuse. Good training resources are crucial to officers involved in these situations.

Law enforcement represents the entry point to the criminal justice system for a substantial number of victims and perpetrators. Agency training, policies, and protocols can support consistent and effective law enforcement intervention in both misdemeanor and felony offenses, while connecting victims with community services and support.

The North Dakota Office of Attorney General is committed to supporting local law enforcement agencies responding to sexual assaults and the Crisis centers that are working towards enhancing services for victims of those assaults.

The model policies are comprehensive and, as such, lengthy. They are a useful guide to assist law enforcement officers in responding to and investigating incidents of sexual assault and ensuring that victims receive the community services and support available to them.

I strongly encourage law enforcement agencies to utilize these policies to develop agency-specific sexual assault response policies.

A handwritten signature in blue ink, reading "Wayne Stenehjem".

Wayne Stenehjem
Attorney General

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PREFACE

Information contained in this document is to be utilized in the forensic evidence collection process in sexual assault cases. This process has been approved by the North Dakota Office of the Attorney General, the North Dakota Office of the Attorney General's Crime Laboratory, and CAWS North Dakota.

As the U.S. Department of Justice has stated, "Sexual assault is a crime of violence against a person's body and will." It is a crime that "continues to plague our Nation and destroy lives."¹ In North Dakota alone, more than 700 new cases of sexual assault have been reported each year since 1995. In 2011, 828 primary victims and more than 258 secondary victims of sexual assault were served by sexual assault crisis centers throughout North Dakota.²

This document has been created for the sake of these victims. Its primary purpose is to promote a uniform evidence collection protocol that will assist to:

- Minimize the physical and psychological trauma to the victim of sexual assault.
- Offer communities a means to develop a victim-centered response.
- Maximize the probability of collecting and preserving physical evidence for potential use in the legal system.
- Provide guidance to local communities.

The North Dakota Sexual Assault Evidence Collection Protocol contains the following sections:

Victim Populations

Sexual Assault: Important Victim Considerations

Reporting Options for Sexual Assault Victims

North Dakota Legal Guidelines

Medical Guidelines

Role of Community Agencies

Recommended Law Enforcement Practices

Sexual Assault/Abuse of Children: Important Information

Sexual Assault of Children: Law Enforcement and Child Protective Services Protocol

Sexual Assault of Children: Medical Response Protocol

Overview of the Forensic-Medical Examination for all Victims

The Sexual Assault Evidence Collection Kit

Evidence Collection from an Alleged Perpetrator

Post-Evidence Collection Procedure: Evidence Collector and Law Enforcement

Although each case of sexual assault is unique, this overview provides the basis from which to develop policy and conduct evidence collection. In addition, basic medical, psychological, and support issues have been addressed throughout. For more detailed information on the medical, psychological, investigative, and legal aspects surrounding sexual assault treatment, please consult topic-specific literature.

The term “sexual assault,” for the purpose of this Protocol, will refer to all sex crimes, defined broadly as:

Any act of sexual contact or intimacy performed upon one person by another without mutual consent, or with an inability of the victim to give consent due to age or mental or physical incapacity.

BACKGROUND

In 1987, a task force formed in North Dakota for the primary purpose of addressing the unmet needs of sexual assault victims. The multidisciplinary task force was comprised of representatives from law enforcement, healthcare, rape crisis organizations, the North Dakota Hospital Association, the North Dakota Office of the Attorney General, the North Dakota Department of Human Services, and the North Dakota Department of Health and Consolidated Laboratories.

The task force sought to meet the following goals:

To develop materials that would encourage uniform procedures and thereby reduce trauma to individuals who report a sexual assault.

To enhance the quality and quantity of evidence collection so as to facilitate prosecution of the crime.

The task force engaged in public hearings throughout the state, which reinforced the commitment to create both the North Dakota Sexual Assault Evidence Collection Protocol and the Sexual Assault Evidence Collection Kit. Adopting the U.S. Department of Justice Protocol as a framework, the task force made modifications specific to facilities and services within North Dakota.

In 1994, under the direction of then Attorney General Heidi Heitkamp, the Protocol was newly revised and edited with the goal of facilitating the successful prosecution of the offender. To this end, the Protocol sought to coordinate the needs of individuals who report a sexual assault with available medical and law enforcement responses.

In 2001, a multidisciplinary ad hoc committee or “team” was formed and funded by the North Dakota Council on Abused Women’s Services. Members of the 2001 team brought particular experience in working with sexual assault victims; they represented professionals from the fields of medicine, law, law enforcement, victim advocacy, and forensic science. The team offered recommendations that were based on the physical and emotional needs of the sexual assault victim, and were reasonably balanced with the basic requirements of the legal system.

The 2004 Committee was expanded to include federal and state victim-witness coordinators and Tribal Judicial representatives. This expanded team modified the Protocol to be more user-friendly; to be compliant with the national protocol provided by the U.S. Department of Justice; and to accompany the Sexual Assault Evidence Collection kits, which the Attorney General’s Crime Laboratory Division distributes to local hospitals.

The 2011-2012 Committee was expanded to include new members with new ideas while including some of the members from the 2004 committee who had previous experience revising the protocol. While North Dakota shares wide diversity in training,

education, facilities, and cultures, the members of the 2011-2012 Protocol Committee hope this Protocol and Sexual Assault Evidence Collection Kit serve you well. We truly hope these resources support your local team to take effective action when a sexual assault victim comes forth.

INFORMATION UPDATED FROM THE 4th EDITION OF THE PROTOCOL

The North Dakota Evidence Collection Kit has been revised along with the 2004 Protocol. Please note the following procedural changes from previous editions, which reflect a desire to be more sensitive to the victim during the initial examination and to avoid subjecting the victim to unnecessary collection procedures. Please note, as well, that this Protocol has additional information related to suspect evidence collection.

The Protocol Instructions should supplement the instruction form enclosed in the kit.

Evidence shall be collected up to 96 hours following a sexual assault – extended from 72 hours, due to advances in technology in the detection of evidence and DNA. Other circumstances such as whether or not a victim has showered prior to reporting will need to be evaluated by attending medical personnel, law enforcement, and the advocate to determine if collection of evidence is appropriate beyond 96 hours.

In order to implement the Health Information Portability and Accountability Act (HIPAA), two separate consent forms must now be used, one to give the medical facility “consent to perform the examination and treatment” and another to allow the “release of protected health information.” These forms can be found in the Appendix. Additional forms may be required by your individual agency.

The collection of fingernail clippings is no longer mandated unless it is clear at the time of collection that such samples would be of evidentiary value. If the nails of the victim were not broken during the assault, there is no reason to collect fingernail clippings. Scrapings of the nails are sufficient.

No wet mount analysis is to be performed. The observation of sperm (motile or non-motile) has proven to be of no evidentiary value. In addition, inclusive or contradictory results between medical reports and forensic reports can hamper the criminal investigation.

The collection of pulled pubic and pulled head hair samples is no longer recommended. The buccal swab and/or blood sample will produce the DNA standard needed.

Based on the National Recommended Standards of Care from the Centers for Disease Control, treatment for prevention of pregnancy or emergency contraception should be provided in all assaults in which there is a risk of pregnancy.

National Standards of Care and the Centers for Disease Control recommend providing prophylactic treatment of sexually transmitted infections rather than performing cultures, unless there is a medical need for cultures.

The medical facility should never directly bill a victim for the forensic medical examination, any health screening under EMTALA, the cost of antibiotics, and any other medications administered as part of the examination. The medical facility should work

with third party payers, Crime Victims' Compensation, and the patient to set up a payment option for all other examination expenses and follow up care. (Refer to Appendix M.)

The Alleged Perpetrator Section is a new section added to ensure proper evidence collection in cases in which a suspect is apprehended and evidence of a sexual assault may exist.

An additional form has been added to the physical condition section of the kit for documentation related to reported strangulation.

Finally, this protocol was completed prior to the 64th Legislative Assembly (2015), as a result of the session there were significant changes to sexual assault related laws, which are included in the following pages.

SIXTY-FOURTH LEGISLATIVE ASSEMBLY OF NORTH DAKOTA
SESSION LAWS RELATED TO SEXUAL ASSAULT

House Bill NO. 1314

AN ACT to amend and reenact section 14-10-17.1 of the North Dakota Century Code, relating to consent for emergency medical care for a minor who has been sexually assaulted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-10-17.1 of the North Dakota Century Code is amended and reenacted as follows:

14-10-17.1. Minor's emergency care.

1. A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This subsection does not authorize a minor to withhold consent to emergency examination, care, or treatment.

2. A physician or other health care provider may provide emergency medical care or forensic services to a minor who is a victim of sexual assault without the consent of the minor's parent or guardian. Reasonable steps must be made to notify the minor's parent or guardian of the care provided.

What does this mean?

Allows for a physician or health care provider to provide emergency medical care or forensic examination services to a minor who is a victim of sexual assault without the consent of the minor's parent or guardian.

However, health care providers must take reasonable steps to notify the minor's parent or guardian of the care provided.

Note: There is no specific age limit pertaining to a minor in this bill.

Senate Bill NO. 2284

AN ACT to amend and reenact section 23-16-16 of the North Dakota Century Code, relating to consent for emergency medical care for a minor who has been sexually assaulted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-16-16 of the North Dakota Century Code is amended and reenacted as follows:

23-16-16. Treatment of victims of sexual assault.

1. As used in this section:

- a. "Hospital" means an entity required to obtain a license under section 23-16-01.
- b. "Sexual assault" has the same meaning as provided under section 12.1-20-07.
- c. "Victim of sexual assault" means an individual who:
 - (1) States a sexual assault has been committed against the individual;
 - (2) Is accompanied by another individual who states a sexual assault has been committed against the accompanied individual; or
 - (3) Hospital personnel or a sexual assault nurse examiner have reason to believe is a victim of sexual assault.

2. A hospital may not require a victim of sexual assault to submit to a forensic examination or to report the alleged sexual assault to law enforcement.

3. A hospital without staff specially trained to perform a sexual assault forensic examination may coordinate with a community-based sexual assault nurse examiner nurse program or develop a sexual assault examiner nurse program to ensure all victims of sexual assault who want a sexual assault forensic examination or sexually transmitted infection treatment receive that examination or treatment.

What does this mean?

Hospitals cannot require a sexual assault to report the alleged assault to law enforcement or to submit to a forensic exam.

Encourages hospitals that currently do not have specially trained staff to perform forensic examinations to develop a sexual assault nurse examiner program or to collaborate with a community based sexual assault nurse examiner program.

Funding was also approved for grants related to training, providing services, and supporting sexual assault nurse examiner programs. Grant funds cannot be used for nurse salaries.

Senate Bill NO. 2335

AN ACT to amend and reenact section 43-17-41 of the North Dakota Century Code, relating to consent for emergency medical care for a minor who has been sexually assaulted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-17-41 of the North Dakota Century Code is amended and reenacted as follows:

43-17-41. Duty of physicians and others to report injury - Penalty.

1. Any physician, physician assistant, naturopath licensed under chapter 43-58, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma:
 - a. Inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered; or
 - b. Which the individual performing diagnosis or treatment has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered.
2. The report under subsection 1 must state the name of the injured individual and the character and extent of the individual's injuries, except when the individual's physical injury is the result of a sexual offense, as defined in chapter 12.1-20, in which case the individual's name, address, and any identifying information may not be included in the report without the individual's written release.
3. When a report of domestic violence, as defined in section 14-07.1-01, or a report of physical injury resulting from a sexual offense, as defined in chapter 12.1-20, is made to a law enforcement agency as required by this section, the injured individual must be provided with information regarding a domestic violence sexual assault organization as defined in section 14-07.1-01 or other victims' assistance program by the physician, physician assistant, naturopath, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1, unless it is known that the information has previously been provided to the injured individual.

4. The reports mandated by this section must be made as soon as practicable and may be either oral or in writing. Oral reports must be followed by written reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.
5. Any individual required to report as provided by this section who willfully fails to do so is guilty of an infraction.
6. Any individual making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

What does this mean?

This amendment was amended to create an exception for a physicians' duty to report a physical injury in cases of a sexual offense so that the individual's name, address, and any other identifying information doesn't need to be stated in the report to law enforcement. This information can only be included in the report with the individual's written release.

Law enforcement still has the ability to respond to the hospital and ask to talk to the victim. The victim is able to share information in regard to the case, including the details of the offender and location of the assault so they can investigate the crime. The victim's name can only be included through a signed release. The name of the victim will still be on the forensic kit and law enforcement can still pick this kit up and store the kit until the victim chooses to move forward with the case. Hospitals can still submit the request for payment even if the victim chooses not to have his or her name in the report.

Senate Bill NO. 2331

AN ACT to amend and reenact section 28-01-25.1 of the North Dakota Century Code, relating to consent for emergency medical care for a minor who has been sexually assaulted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-01-25.1 of the North Dakota Century Code is amended and reenacted as follows:

28-01-25.1. Limitation on actions alleging childhood sexual abuse.

Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual abuse must be commenced within ten years after the plaintiff knew or reasonably should have known that a potential claim exists resulting from alleged childhood sexual abuse. For purposes of this section, "childhood sexual abuse" means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under eighteen years of age and which would have been a violation of chapter 12.1-20 or 12.1-27.2. In a claim for relief under this section, the plaintiff is not required to establish which act in a continuous series of sexual abuse acts by the defendant caused the injury.

SECTION 2. AMENDMENT. Section 29-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

29-04-03.1. Prosecution for sexual abuse of minors.

1. Except as provided in subsection 2, a prosecution for a violation of sections 12.1-20-03 through 12.1-20-08 or of section 12.1-20-11 if the victim was under eighteen years of age at the time the offense was committed must be commenced in the proper court within ten years after the commission of the offense or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.
2. If, based upon evidence containing deoxyribonucleic acid obtained at the time of offense, a suspect is conclusively identified by deoxyribonucleic acid testing after the time period prescribed in subsection 1 has expired, a prosecution may be commenced within three years after the suspect is conclusively identified by the deoxyribonucleic acid testing.

What does this mean?

28-01-25.1 is a limitation for the ability to file a civil case based upon an act of childhood sexual abuse. The statute changed from 7 years to 10 years.

29-04-03.1 The amendment was amended so that the amount of time from the date of the offense to initiate prosecution was lengthened from 7 years to 10 years. The statute of limitation does not specify resolution of a case within that time, it is the time frame imposed on when charges must be filed. That leads into the DNA provision when there is an unknown suspect. Once DNA evidence is obtained, it starts a new 3 year period to file charges.

DEFINITIONS

Definitions

Child Abuse and Prevention Treatment Act definition of sexual abuse includes: “The employment, use, persuasion, inducement, enticement or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution or other form of sexual exploitation of children, or incest with children.”

Child sexual exploitation can involve the following: Possession, manufacture and distribution of child pornography; online enticement of children for sexual acts; child prostitution; and child sex tourism.

“Coercion” means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance. N.D.C.C. § 12.1-20-02

“Domestic violence / sexual assault organization” means “a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault.” N.D.C.C. § 14-07.1-01 (3)

The Emergency Medical Treatment and Active Labor Act (EMTALA) was passed by the US congress in 1986 as part of the Consolidated Omnibus Reconciliation Act (COBRA). EMTALA: In the case of a hospital that has a hospital emergency department, if any individual comes to the emergency department and a request is made for examination or treatment for a medical condition, the hospital must provide an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department to determine if an emergency medical condition exists. Proc (Baylor University Medical Center). 2001 October; 14(4): 339–346.

Health Insurance Portability and Accountability Act of 1996 (HIPAA): A US law designed to provide privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers. Developed by the Department of Health and Human Services, these new standards provide patients with access to their medical records and more control over how their personal health information is used and disclosed. They represent a uniform, federal floor of privacy protections for consumers across the country. State laws providing additional protections to consumers are not affected by this new rule. HIPAA took effect on April 14, 2003. U.S. Department of Health and Human Services

“Law enforcement officer” means “a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigation of violations of law.” N.D.C.C. § 14-07.1-01(6)

“Object” means anything used in commission of a sexual act other than the person of the actor. N.D.C.C. § 12.1-20-02

“Probable cause” to justify an arrest means facts and circumstances within the officer’s knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing in the circumstances shown, that the suspect has committed, is committing, or is about to commit (in the case of a threat) a crime. Probable cause is frequently referred to in cases and statutes as “reasonable grounds.” (Black’s Law Dictionary, 2000)

“Sexual act” means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or vulva; or the use of an object which comes in contact with the victim’s anus, vulva or penis. For the purposes of this subsection, sexual contact between the penis and the vulva, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva or penis of the victim, occurs upon penetration, however slight. Emission is not required. N.D.C.C. § 12.1-20-02

“Sexual contact” means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires. N.D.C.C. § 12.1-20-02

“Sexually abused child” means an individual under the age of 18 who is subjected by a person responsible for the child’s welfare, or by any individual who acts in violation of sections 12.1–20–01 through 12.1–20–07, sections 12.1–20–11 through 12.1–20–12.2, or chapter 12.1–27.2. N.D.C.C. § 50-25.1

“State” means “a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.” N.D.C.C. § 14-07.4-01 (7)

“Victim” means “a natural person who has suffered direct or threatened physical or emotional harm where there is probable cause to believe that the harm has been caused by the commission of a criminal act. The term "victim" includes the family members of a minor, incompetent, incapacitated, or deceased person.” N.D.C.C. § 12.1-34-01(8)

IMPORTANT VICTIM CONSIDERATIONS

Unfortunately, both the medical examination and the investigative interview bear a resemblance to the traumatizing experience that the victim has already suffered: They each involve either physical or emotional re-visiting of the sexual assault.

For this reason, medical personnel and law enforcement officers play a crucial role – not just in the collection of evidence, but in the victim’s eventual recovery. These professionals are in a unique position to offer immediate support and help in the victim’s re-empowerment process. The more truly supportive these professionals can be, the less likely they are to further traumatize the victim and thus hinder the evidence-gathering process.

One significant way to minimize additional trauma is to ensure a victim-centered response in all aspects of the sexual assault investigation.

Professionals are also able to consider the ways in which they make their perceptions known to the victim – intentionally or otherwise.

First and foremost, please know that sexual assault is **NEVER** the fault of the victim, regardless of the circumstances.

Surprisingly perhaps, 70% of rape victims report no major physical injury.³ They may arrive at the emergency department or police department, not for assistance with a physical injury, but for protection and general assistance.

In any situation, victims experience varying degrees and types of trauma. The effects of psychological trauma are often more difficult to recognize than physical trauma. A traumatized victim may appear to be calm, indifferent, submissive, laughing, angry, or even hostile toward those who are trying to help. Any and all of these responses are appropriate responses to sexual assault – which is, after all, a crime against a person’s “body and will.”⁴

In general, victims of sexual assault may experience

- shock,
- numbness,
- disorientation,
- difficulty concentrating,
- withdrawal,
- denial,
- nightmares,
- flashbacks,
- rage,
- anger,

- depression,
- difficulty eating or sleeping,
- extreme and unexplainable fears,
- guilt, and
- self-blame.

It is common for victims who have been through a traumatic event to block certain parts of the incident; however, they remember those details later. Just because some parts of a victim's account of the assault changes, does not mean the sexual assault didn't happen. In addition, all responders will be aware of the many reasons a victim may withhold information.

While there is neither a "typical" sexual assault, nor a "typical" pattern of response to sexual assault, counselors report that a victim *may* experience a number of different responses⁵:

Fear

Fear of damaging credibility or getting in trouble when alcohol/drugs are involved;

Fear of or concern for the offender when the victim and perpetrator know each other;

Fear of lack of support from family/friends/community.⁶

Fear that the perpetrator will retaliate: Perpetrators often threaten to harm or kill victims if they report the crime, saying, "I will find you somewhere or somehow."

Fear of the reactions of others, including medical personnel, law enforcement, family, friends, and community: Those who have been sexually assaulted are aware that other victims have been blamed for their own sexual assault.

Fear of others who resemble the perpetrator in some way: As a natural protective response, a victim may develop a generalized fear of men, adults, people wearing a certain type of clothing, or general appearance, etc. or similar characteristics to the perpetrator.

Fear of not being believed: This fear can be especially marked if the victim knew the perpetrator in advance or if the perpetrator is well known in the community. In addition, there may be fear that responders won't believe them when details are remembered later that add or differ from the original account of the assault.

Guilt

Guilt because he or she has internalized the societal belief that victims are somehow to blame for sexual assault. "I should not have been drinking." "I should have locked the

door.” “It must have been something I did.” A victim may need to be reminded that the assault is a crime committed against her or him and that the perpetrator is responsible. Guilt because he or she didn’t attempt to fight the perpetrator – or didn’t fight hard enough. A victim may need to be reminded that staying alive was of the utmost importance and that fighting the attacker could have caused more harm or even death to the victim.

Guilt because he or she knew the perpetrator prior to the sexual assault. A victim may benefit from the reminder that there is no way to know a perpetrator looks like. The victim may have been in the perpetrator’s company previously without being assaulted, so the victim may have felt a sense of trust.

Guilt because he or she used to believe in the power to resist a perpetrator: In the past, a victim may have seen her- or himself as someone who could spot, ward off, or effectively fight a perpetrator. After the sexual assault, a victim may feel tremendous self-doubt and guilt about not being able to stay safe.

Embarrassment

Embarrassment about discussion of the assault. Many victims are embarrassed to talk about the physical details of the assault. Many people believe their bodies and sexual traumas are private and not to be revealed.

Embarrassment about possible reactions from friends and family. Many victims isolate themselves from family and friends because they are embarrassed by the sexual assault.

Embarrassment about the forensic medical examination. A victim’s body is again exposed to others, possibly reminding the victim of the sexual assault.

Anxiety

Anxiety may occur in psychological form; such as flashbacks and nightmares.

Anxiety may occur in physical form; such as shaking, shortness of breath, and panic. A victim may benefit from reminders that the current environment is a safe one, and that the physical reactions are occurring as a result of feelings about the assault and are completely normal.

Anger

Anger about the sexual assault and/or the perpetrator.

Anger about events following the sexual assault, such as having to change lifestyle, testify in court, seek continued medical care, pursue ongoing counseling, and adjust to an overwhelming sense of powerlessness.

Anger can be a very therapeutic reaction for victims of assault; anger with the perpetrator can mark the beginning of recovery. Counseling, reporting, and prosecuting may be ways to vent and transform a helpless sense of anger and assist with regaining a sense of control.

VICTIM POPULATIONS

Just as each victim has a unique reaction to sexual assault, each victim may face an additional set of circumstances that affect how he or she recovers.

The age of the victim is one of the most crucial factors to consider when responding to any victim of sexual assault – in determining the proper method of administering an interview, conducting a forensic medical examination, and/or providing psychological support.

In North Dakota, approximately 61% of sexual assault victims are between the ages of 0 and 24. Many forensic evidence collection issues apply equally to adult, youth, and child victims of sexual assault. Even so, the needs of a young victim can be markedly different from those of an adult. Since over half of all sexual assaults include young victims those differences need to be emphasized in any training related to sexual assault.

The Child Victim

The Child Protocol sections of this document discuss various issues of concern in examining or interviewing a child victim; ages 0-13. While these sections are included to assist child victims and those who respond, the collection of evidence is only one aspect of investigating child sexual assault.

Indeed, the dynamics involved in caring for child victims are too many to sum up in a few paragraphs. Therefore, it is recommended that child victims be examined and interviewed at treatment centers that specialize in the collection of evidence with children and in child forensic interviews. For a list of such centers see Appendix K.

The Adolescent Victim (ages 14-18)

An adolescent reporting sexual assault (including statutory rape), whether delayed or not, requires crisis intervention services due to the delicate nature of emotional issues surrounding disclosure. A vulnerable adolescent is subject to grooming by a perpetrator which often leads to coerced sexual activity. Without proper services the incident can:

- Affect an adolescent's future intimate relationships
- Keep the victim from disclosing to their family due to feelings of fear and/or guilt
- Cause withdrawal, depression, self-mutilation, and/or suicidal tendencies

A family's response to the disclosure of a sexual assault will have a long lasting impact on their relationship with their child. By providing immediate rape crisis intervention, families are assisted in getting the emotional support they need as well as education about this type of crime and how they can support their child.

The Elderly Victim

As with other sexual assault victims, elderly victims can experience extreme humiliation, shock, disbelief, and denial. An elderly victim may not feel the full emotional impact of the assault until after his or her initial contact with advocates, attending medical personnel, and law enforcement. At this time, an older victim might begin to realize the full extent of the violation – the effect of possible illness caused by the assault, as well as the increased physical vulnerability and threat of mortality. Fear, anger, or depression can be especially severe in older victims who can often be isolated, lack a support system, and live with limited resources.

In general, the elderly are physically more vulnerable than the young, and injuries from an assault are more likely to be life threatening. In addition to possible pelvic injury and sexually transmitted infections, the older victim may face increased risk of other tissue or skeletal damage, as well as exacerbation of existing illnesses and vulnerabilities. For many of these reasons, the emotional recovery process can tend to be lengthier for elderly victims of sexual assault.

Hearing impairment and other physical conditions associated with advancing age can render the elderly victim unable to make her or his needs known. As a result, the victim may prolong the period before reporting the assault and then may receive inappropriate treatment. Unfortunately, hospital and law enforcement personnel may incorrectly conclude that senility – rather than sexual assault – is responsible for the victim's confusion and distress.

All follow-up services must be made easily accessible to elderly victims, so that these victims become more able to seek or receive help. With encouragement and assistance in locating services, elderly victims may become less reluctant to proceed with examination and investigation.

The Female Victim

Females are the victims of sexual assault in 90% of cases reported to the CAWS North Dakota.

In the United States, where men hold the majority of positions of power and authority, a female victim of sexual assault can face an intensified experience of loss – loss of power and authority over her own body.

In many cultures, the female's loss of virginity is an issue of paramount importance as it may render the victim stigmatized, considered unclean, or unacceptable for an honorable marriage. In other cultures, the loss of virginity may not be as great a concern as is the assault itself. 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 sexual assault forensic examiner; such practices are considered a further

violation. In any circumstance, a female sexual assault forensic examiner should be made available for patients who request one.

The Male Victim

Perhaps only a small percentage of male victims of sexual assault ever report the crime, seek medical care, or pursue counseling. Present social and cultural values can increase the trauma of the reporting experience by the male victim. As a result, many adult males seek medical care only if they have also been seriously injured. At the same time, there does appear to be an increase in the number of male child victims who receive treatment at hospitals.

A male victim may have serious psychological trauma because of concerns over his inability to resist the assault or confusion about the nature of his role as victim and sexual identity; perhaps he experienced an involuntary physiological response to the assault, such as stimulation or ejaculation. Like female victims, male victims can benefit from reassurance about the nature of the assault, as well as the likelihood of recovery; they may need to be reminded that the assault was indeed a crime that they are not to blame for the crime, and that sexually assaulted males do recover and emerge as survivors.

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 Lesbian, Gay, Bisexual and Transgender Victim

As with all persons who have been sexually assaulted, the victim's recovery depends upon her or his support network and the response of individuals to the report of sexual assault. Lesbian, gay, bisexual, and transgender (LGBT) victims of sexual assault confront issues similar to all other victims of sexual assault. They may blame themselves for the assault, question their sexuality or gender identity, and fear pregnancy or sexually transmitted infections. They may fear being "outed" (exposed as LGBT) by the perpetrator as punishment for seeking services. They may be extremely reluctant to seek services at all, fearing discrimination or disrespect by medical personnel, law enforcement officers, and other helping professionals.

It is important for individuals responding to sexual assault to have sorted through their feelings about LGBT people, so that they can treat all victims with dignity, respect, and compassion.

The Victims with Physical, Developmental, Communicative, Visual and/or Auditory Disabilities

The general difficulty of providing an adequate response to the sexual assault victim is compounded when the victim is disabled. Victims with disabilities may have limited mobility, cognitive differences which impair perceptual abilities, impaired or reduced

mental capacity to comprehend questions, or limited language or communicative skills to describe the sexual assault.

Criminal and sexual acts committed against persons with disabilities (physically, developmentally, or communicatively) generally go unreported and seldom realize successful prosecution. Offenders are often family members, caretakers, or friends who repeat their abuse when their victims are unable to report the crimes against them.

Victims, who are disabled, as well as their families, should be given high priority and attention in the emergency room. Additional time should be allotted for evaluation, medical examination, and the collection of evidence.

The victim who is physically disabled may be more vulnerable to a brutalizing assault. She or he may need special assistance to assume the positions necessary for a complete examination and collection of evidence. Improvisation of guidelines may be indicated in some instances.

The victim who is developmentally disabled may be particularly confused or frightened, possibly unsure of what has occurred and unable to understand that he or she has been exploited and is the victim of a crime.

In sexual assault cases involving a victim with communicative disabilities, the use of anatomically correct dolls has proved to be a successful method of communication. Also, 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 persons with hearing impairments are provided effective health care services. These options include the provision of a sign language interpreter.

Referrals to specialized support services and reports to law enforcement agencies are particularly necessary for those who may need protection, physical assistance, or transportation for follow-up treatment and counseling. Follow-up with support staff is critical for a comprehensive care plan and victim-centered response.

The Victims Who Face Additional Language or Cultural Barriers, Refugees and Immigrants

Refugees and immigrants in the United States may be particularly vulnerable to victimization. Perpetrators may exploit a victim's limited English proficiency, their legal residency status, or their fear of law enforcement. Many refugees and immigrants may have faced torture and/or sexual assault as part of political conflict. As a result, the trauma inflicted by a sexual assault may compound the effects of previous assaults.

Consideration must be given to refugees and immigrants, whether or not they reveal previous experiences of trauma. In their past experiences, medical personnel and law enforcement officers may have been present or involved in the administration of torture

and assault. Consequently, the forensic medical examination and investigative interview may induce overwhelming anxiety and fear in the victim.

Consequently, medical procedures and legal rights should be fully explained, so that the victim clearly understands the procedures and also realizes her or his right to refuse them. Interpreters and/or specially trained, culturally sensitive persons should be available for support, at no cost to the victim.

Cultural Differences with Victims

A person's heritage, culture, and customs can play a major role both in the experience of sexual assault and in its aftermath, how the victim perceives the sexual assault, the healing process, the criminal justice system, and professionals wanting to help. It is crucial to continue to develop culturally-sensitive responses to all victims of sexual assault. As much as possible, the ethnicity and culture of team members should reflect the community in which services are provided.

In North Dakota, services for minority populations can be limited due to a range of issues including economics, language, religion, traditions and family values and relations. When working on sexual assault issues, these barriers to services must be considered.

Sexual Assault within a Relationship

Sexual assault by an intimate partner is a grave indicator of the danger a victim faces and must be taken seriously. Forced sex is a factor in determining the potential for lethality; a woman who is raped by her partner is more likely to die at his hands. Medical personnel must determine whether the victim is a domestic violence victim so proper services and referrals can be provided.

A victim who has been sexually assaulted by a partner has likely been suffering other forms of violence during the relationship. Many victims keep physical, emotional and sexual abuse hidden from friends and family members for numerous reasons:

- Many religions and cultures prohibit divorce;
- The victim believes the abuse is deserved
- The victim does not realize a crime has been committed
- The victim does not have a support system
- The victim is financially dependent upon the abuser
- The victim fears the abuser will harm her or her children

When a victim indicates that domestic violence is occurring, the medical provider should refer the victim to a domestic violence advocate. Materials which list resources and explain the cycle of violence are available through a crisis center. Providing this

information and getting the victim in touch with an advocate who is cross-trained in sexual assault and domestic violence is crucial to the safety of the victim.

REPORTING OPTIONS FOR VICTIMS OF SEXUAL ASSAULT

Who presents the reporting options to a sexual assault victim?

A sexual assault victim advocate should be contacted to meet with the victim to discuss the forensic medical examination and both immediate and delayed reporting options. If an advocate is not available then a law enforcement officer should provide the information to the victim.

Law enforcement officers, physicians, and advocates should encourage victims to receive the examination. No one can force the victim to receive a forensic medical examination or decide for them; it is ultimately their choice.

Victims will be assisted with making an informed decision about reporting and will be encouraged, but not pressured to report. In addition, when reporting the crime, victims retain the right to cooperate according to what they are emotionally able to handle at any given time. When victims make informed decisions about reporting, they are more likely to cooperate fully with the investigation. Victims also have the option of completing a forensic medical examination as a “Non-Reported Case”.⁷

A sexual assault victim can choose: (1) a forensic medical examination for personal medical care and to collect evidence of the sexual assault, (2) a medical examination for personal medical care only, (3) no medical examination. **Every** victim has a right to a **free** forensic medical examination.

What information should be given to the sexual assault victim?

1. The considerations of immediate and delayed reporting options.
2. Information regarding the collection of evidence and the storage of the evidence, including the length of time the evidence will be stored and information on the destruction of the evidence.
3. The name and contact information for the individual the victim is to contact in the event she/he desires to proceed with reporting the assault to law enforcement, as well as any identifying information.
4. Information regarding the local nonprofit domestic violence/rape crisis center within the community and the services available to the victim (counseling, hotline, crime victims' compensation, etc.).
5. Victim identification information entered into the law enforcement agency's data system is subject to the ND's open records law N.D.C.C. § 44-04.

To best serve the needs of victims, professionals should be willing to address all concerns brought up by the victim and to provide the victim with enough information to be able to make informed decisions.

Ideally, every sexual assault victim should have a medical examination as quickly as possible to determine whether he or she has sustained internal injuries that could lead

to complications, to determine the risk of pregnancy, and to collect evidence of the sexual assault.

The victim can choose the extent to which she or he cooperates with the investigation by law enforcement. Law enforcement should encourage cooperation but ultimately the decision is the victim's. In addition, law enforcement is charged with the responsibility of clearly informing the victim of the following: Although it is more difficult for the State to prosecute a sexual assault case without the victim's report or cooperation, the decision to prosecute is the State's and not the victim's. The victim does not need to "press charges" in order for the State to prosecute.

Victims have a right to have an advocate present to assist them through the process and to answer any questions.

Note also that reporting by certain professionals is mandated by law.

NORTH DAKOTA LEGAL GUIDELINES

Age of Consent

Under North Dakota law N.D.C.C. § 14-10-17, any person age fourteen years or older may consent to receive examination, care, or treatment for sexually transmitted infections/diseases (STIs) without permission, authority, or consent of a parent or guardian.

In order to conduct a forensic medical examination of any victim under age eighteen, permission from a parent or guardian is required. In cases where a parent or guardian is unavailable or is intentionally preventing authorities from gathering evidence, an order for temporary custody should be obtained from the Juvenile Court, through law enforcement or Child Protective Services.

Mandatory Reporting of Suspected Sexual Assault

According to North Dakota law, medical personnel are mandated to report violent crimes, including sexual assault. Medical personnel are required to notify local law enforcement authorities as soon as is practicable.

Pursuant to N.D.C.C. § 43-17.41, any physician, physician assistant, or any individual licensed under N.D.C.C. Chapter 43.12.1 (Nurse Practice Act) who performs any diagnosis or treatment of any individual suffering from any wound, injury, or the physical trauma that is inflicted with a knife, gun, or pistol is required to report the act to a law enforcement agency in the county in which care is rendered.

In addition, the same medical personnel who perform any diagnosis or treatment of any individual in which there is reasonable cause to suspect the wound or injury was inflicted in violation of any criminal law of the State are required to report the injury to a law enforcement agency. Therefore, the same medical personnel must report any suspected sexual assault.

This law does not apply to mental health professionals, clergy, or others providing services that are not related to physical injury of a crime victim.

Mandated Reporting of Sexual Assault, current as of 2014.

Age of Victim	Age of Alleged Offender	Other Circumstances
Minor under 15	any age	Any sexual act/contact
Minor ages 15 to 17	any sexual activity with another individual ages 15 to 17 if:	use of threat, force, incapacitation, mental defect/disease, or in official custody
Minor ages 15 to 17	the adult is more than three years older than the minor	Any sexual activity with an adult

Mandatory Reporting of Suspected Child Abuse and Neglect

North Dakota law mandates the reporting of suspected child abuse and neglect. Pursuant to N.D.C.C. § 50-25.1-03 and N.D.C.C. § 50-25.2-03, the following persons are required to make a report when they have knowledge or reasonable cause to suspect abuse or neglect:

physicians, nurses, dentists, optometrists, medical examiners, coroners, any other medical or mental health professionals, religious practitioners of healing arts, school teachers or administrators, school counselors, social workers, providers of daycare or any other care, law enforcement officers, and members of the clergy (unless information is derived in the capacity of spiritual adviser).

Reporting of Suspected Abuse and Neglect of Vulnerable Adults

North Dakota law also recommends the reporting of suspected abuse and neglect of vulnerable adults under N.D.C.C. § 50-25.2-03.

MEDICAL GUIDELINES

Victim Consent to Evidence Collection and Consent to Release Information

With the implementation of HIPAA, medical facilities are required to obtain two forms of consent. One is the consent to collect evidence; the other is to allow the medical facility to release this information to law enforcement.

It is the standard practice of medical treatment facilities to obtain a sexual assault victim's fully-informed, written consent prior to conducting a medical examination or administering treatment. Medical treatment facilities should follow their usual procedures for obtaining consent in extraordinary cases (i.e., for severely injured or incoherent victims).

Informed consent and consent to release information should be a continuing process that involves more than obtaining signatures on forms. When under stress, many victims may not understand or remember the reason for or significance of unfamiliar, embarrassing, and sometimes intimidating procedures. Therefore, all procedures should be explained as thoroughly as possible, so that the victim can understand both the procedures and the reasons for the procedures. Although much of the examination and evidence collection process can be explained by an advocate, support person, or law enforcement, the ultimate responsibility lies with attending medical personnel.

Right to Decline

Having a sense of control is an important part of the healing process for victims, especially at the early stages of examination and interviewing. When written consent is obtained, it should not be interpreted as a "blank check" for performing tests or questioning the victim. If the victim expresses resistance or non-cooperation, the attending medical personnel 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 victim does have the right to decline any and all tests, as well as any and all questions.

Medical Treatment Facilities Process

The treatment of victims of sexual assault is a medical emergency. Although many victims may not have visible signs of physical injury, they will, at the very least, be suffering from some degree of emotional trauma.

A private location within the hospital should be utilized for the preliminary consultation with the victim. This could be a room adjacent to the emergency department, the examination room, or private office located nearby.

Over the past several years, many hospitals have developed "code" plans, such as "Code R" or "SA" to use when referring to sexual assault cases. This eliminates the needless embarrassment to victims or their families of being identified in the public emergency or examining room setting as the "rape" or "sexual assault" victim. Other methods can be devised to avoid inappropriate references to sexual assault cases. Treatment facilities are encouraged to develop their own sensitive code plans to ensure privacy.

Health Care Providers

The primary objectives of the healthcare providers are to provide:

- Life saving interventions
- Timely patient treatment

Recommended Protocol for Medical Facilities:

Each medical facility should meet the minimum standard of care outlined in the *North Dakota Sexual Assault Medical Care Best Practice Guidelines*, May 2014. The minimum standards are listed below.

- The physical, emotional, psychological, socio-economical and cultural well-being of a victim of sexual assault shall be recognize and given triage priority.
- Victims of sexual assault shall receive age specific treatment and services.
- Victims of sexual assault shall receive the same standard of care regardless of the circumstances of the sexual assault.
- Emergency departments shall develop and implement a sexual assault response policy as recommended by the North Dakota Sexual Assault Medical Standards Committee.
- A physician, and/or nurse, trained in the care of sexual assault victims, shall assist with the examination and/or follow-up planning to include referrals to medical, advocacy, mental health, social services, law enforcement, and crime victim compensation service providers.
- Emergency department shall provide an environment which publicly values and promotes a victim-centered approach to sexual assault.

ROLE OF COMMUNITY AGENCIES

Sexual assault is the most underreported crime in our nation; therefore communities must look for ways to encourage reporting by:

- inspiring victim confidence that the system will offer sensitive and respectful treatment;
- establishing a response that allows victims many entry points into the system.⁸

Community collaborative efforts include several community members that are essential to creating a community that is responsive to the needs of victims, holding perpetrators of sexual crimes accountable and increasing public safety. They include: dispatch, law enforcement, medical personnel, victim advocacy services, forensic experts, victim-witness personnel, and criminal justice personnel such as prosecutors.

Incorporate a victim-centered approach into patient care:

- Provide timely, priority care to the patient.
- Treat the victim as one would any other traumatized patient that is seen in a medical facility.
- Provide a private location for the victim to speak with the medical professional and other team members.
- Remember that the patient is a crime scene.
- Provide assessment and treatment of the patient assuring life-threatening injuries are identified and treated.
- Minimize the number of people a victim has to tell about the sexual assault.
- Minimize the number of people a victim comes in contact with during the forensic medical process, i.e. the number of people present during the examination.
- Explain to the victim the process.
- Offer additional advocacy services through a community based advocate.
- Discuss confidentiality limitations and mandatory reporting requirements with victims.
- Obtain both written consent on forms, and ongoing verbal consent to all aspects of the forensic medical examination.
- Establish consent for photo-documentation of injury.
- Work with the victim to manage and complete the entire forensic medical examination, respecting that patients may decline some parts.
- Document the patient's relevant medical history and injuries.
- Complete a sexual assault forensic evidence collection kit following protocol to maintain the chain of custody and ensure the integrity of samples and documentation.
- Maintain the confidentiality of the patient and integrity of the medical record.

Sexual Assault Response Team (SART):

A multidisciplinary response team that provides direct intervention to sexual assault victims as they interact with the criminal justice system and coordinates effective investigative and prosecutorial efforts in connection with a report of sexual assault. The SART team is comprised of representatives from Law Enforcement, Sexual Assault Nurse Examiner (SANE), Advocacy and Prosecution. A SART is designed as a vehicle of collaboration, relationship building, training, education and accountability among and between professionals, making the most of limited public resources.⁹

Law Enforcement

The responsibility of law enforcement is to investigate the information reported. They must be a licensed or sworn peace officer recognized through their jurisdiction.

Additional best practices which encourage a consistent and effective law enforcement response include:

- Acknowledging and validating the experience of victims of sexual assault
- Investigating effectively to build strong cases against sexual assault suspects
- Supporting and empowering victims of sexual assault through effective collaborations
- Documenting sexual assault allegations thoroughly and accurately to assure effective prosecution and the successful delivery of services

For additional information on law enforcement practices and procedures please see North Dakota Model Law Enforcement Sexual Assault Policy, September 2011.¹⁰

State's Attorney/Prosecutor

A State's Attorney is an appointed or elected official (or designee) responsible for handling the legal resolution of criminal cases. Additional responsibilities may include assisting law enforcement with obtaining all necessary search warrants to aid in the investigation.

At the conclusion of evidence gathering, the police submit their investigation to the state's attorney, who acts as director of the case. The state's attorney determines whether there is sufficient evidence to charge the suspect and, if so, with which crimes the suspect is to be charged. Subsequently, the state's attorney may ask the court to authorize an arrest warrant for the suspect.

Using victim interviews, hospital records, witness statements, expert testimony, and results of the forensic-medical examination information and analysis – the state's attorney's office reconstructs the events leading up to the assault, as well as the aftermath.

To best prosecute the case, the state's attorney should work with a victim advocate both to contact the victim and to facilitate meetings, interviews, and court appearances. Collaborative efforts of medical personnel, law enforcement, victim advocacy, and the state's attorney's office help not only to support the victim, but to hold the perpetrator accountable.

Community Based Sexual Assault Advocates

Community based advocates are employees of local non-profit organizations whose primary purpose is to provide services to victims of sexual assault regardless of whether or not the victim is involved with the criminal justice process. Community based advocacy has a rich history of grassroots organizing within a larger context of social change. Their commitment to a broad understanding of the issues surrounding violence against women allows community based advocates to provide services to victims with a well-developed understanding of the dynamics of sexual assault. The role of a community based advocate in response to sexual assault is crucial. There is no other discipline whose primary function is to advocate for the interest and wants of the victim.¹¹

It is highly important that an advocate or support person be available to each sexual assault victim, regardless of age. Whenever possible, one support person should be assigned to stay with the victim during any interviews, as well as the entire visit to the emergency department.

Well-trained support persons can:

- provide the crisis intervention necessary when victims first arrive for treatment;
- counsel family members or friends who may be at the treatment facility;
- answer questions that victims might have;
- offer counseling referrals and other information, such as the availability of victim compensation programs or other types of assistance; and
- emphasize the importance of follow-up care for possible sexually transmitted infections or other medical concerns.

Some treatment facilities have in-house staff specially trained to treat victim trauma and to provide crisis intervention for victims and their families; this staff may also be qualified to provide follow-up counseling to victims on a short or long-term basis.

Local sexual assault crisis centers provide trained crisis intervention advocates for the victim and the family during the forensic medical examination, the investigation, and the criminal justice process. In addition, sexual assault advocates can also assist in coordination with medical personnel, law enforcement, prosecutors, and other community services to provide a victim-centered response.

Children’s Advocacy Centers (CAC)

A **Children’s Advocacy Center (CAC)** is a child-focused, community-oriented, safe facility in which members of a multidisciplinary team (MDT) – including child protection, social services, law enforcement, prosecution, victim advocacy and the medical and mental health communities – work together to provide a comprehensive, coordinated and compassionate investigation and intervention of child abuse allegations. Attention to the needs and abilities of children is the hallmark of the Children's Advocacy Center model to ensure that children are not further victimized by the systems intended to protect them. From the initial allegation of abuse, the Multidisciplinary Team (MDT) approach allows the child an opportunity to talk with a single interviewer in a child friendly, neutral setting, thus protecting the child from being unnecessarily interviewed by multiple people from each specific field. If abuse is suspected, the team continues to work together to guide the investigation, treatment, management and possible prosecution of the case to ensure the greatest level of protection and care for the child and his/her family.

Sexual Assault Forensic Examiner

The role of the “sexual assault forensic examiner” is to perform a forensic medical examination on an alleged perpetrator or victim of a sexual assault – for the purpose of evidence collection, documentation, and preservation of evidence.

A nurse may collect all evidence, except evidence resulting from pelvic examination; then a physician may perform the pelvic examination and collect related swabs. In this case, the physician would be considered the “sexual assault forensic examiner.”

“Sexual assault forensic examiner,” is a broad term used not just to describe the physician, but any medical professional who is authorized to perform the forensic medical examination for the sexual assault. In total, healthcare professionals who can perform the pelvic examination include Nurse Practitioners, Sexual Assault Nurse Examiners (SANEs), Physicians, or Physicians Assistants:

Sexual Assault Nurse Examiner (SANE)

A SANE is a registered nurse specially trained in the comprehensive care of sexual assault patient that competently collects evidence and provides expert testimony in court.

The primary objectives of SANEs are to provide:

- Assessment of patient’s medical condition.
- Formulate a nursing diagnosis.
- Intervention and care of injuries.
- Collection of forensic evidence.

- Administration of medications.
- Reviewing the process to ensure all patients' needs are addressed.
- Make referrals for follow-up.

Recommended Protocol for SANE Programs:

Guidelines for the evidence collection and medical services provided to sexual assault victims have been established by the *National Protocol for Sexual Assault Medical Forensic Examinations; Adults/Adolescents*, April 2013 and *Evidence Collection and Care of the Sexual Assault Survivor*, August 2001.

Advanced Practice Registered Nurse

A licensed advanced practice registered nurse who has completed either a graduate degree with a nursing focus, or the education requirements in effect when the person was initially licensed (N.D.C.C. § 43-12.1). The advanced practice registered nurse has the authority to assess, diagnose, and prescribe as defined in his or her scope of practice.

Physician

A physician is a medical school graduate with a completed residency program in a chosen specialty of practice. A physician must be certified or eligible for certification in the chosen specialty and licensed to practice in the state of North Dakota. If a physician is practicing in an Indian Health Services facility, they must be licensed in a state in the United States.

Physician Assistant

A physician assistant is a graduate of an accredited physician assistant program, who has completed the national certification examination.

RECOMMENDED LAW ENFORCEMENT PRACTICES

Transportation, Tracking and Storage of Forensic Evidence in Sexual Assault Cases

Law Enforcement Recommended Policy

- The local law enforcement agency within the jurisdiction in which the offense was believed to have occurred is responsible for coordinating the collection of the Sexual Assault Evidence Collection Kit from the healthcare facility. The victim's name and date of birth shall be required for collection of the kit.
- Forensic Medical Examination should be performed within 96 hours after the alleged incident. N.D.C.C. § 12.1-34-07
- Sexual Assault Evidence Collection Kits and other evidence collected for victims who do not currently elect to proceed with an investigation should be maintained in the same manner as other Evidence Collection Kits and evidence.
- The law enforcement agency in custody of the collected evidence is responsible for maintaining the chain of custody of that evidence.
- Law enforcement agencies will determine the method for assigning a report number and maintaining custody of the evidence. Evidence will then be stored according to ND Crime Laboratory recommendations.
- Sexual assault evidence collected from non-investigated cases should be kept by law enforcement for a minimum of seven years or until the victim turns twenty-two, whichever occurs later.¹²

SEXUAL ASSAULT/ABUSE OF CHILDREN: IMPORTANT INFORMATION

Child sexual abuse is a national epidemic. It affects boys and girls of all ages. In fact, this is a problem that directly affects millions of children around the world. Child sexual abuse is not rare. There is an estimated 39 million survivors of childhood sexual abuse in America today, and based on prevalence data from adults, about 500,000 children are sexually abused each year in the US. In contrast, each year in the United States, there are 12,400 new cases of childhood cancer diagnosed and 18,000 new cases of juvenile diabetes diagnosed. It also affects more children than those diagnosed with asthma or Attention Deficit Hyperactivity Disorder (ADHD).

Child Sexual Abuse

Child sexual abuse is any interaction between a child and an adult (or another child) in which the child is used for the sexual stimulation of the perpetrator or an observer.

Sexual abuse can include:

- Touching of the vagina, penis, breasts or buttocks
- Oral-genital contact
- Sexual intercourse
- Voyeurism (trying to look at a child's naked body)
- Exhibitionism or
- Exposing the child to pornography.

Abusers often do not use physical force, but may use play, deception, threats or other forms of coercion to engage children and maintain their silence. Children can be sexually abused by another child or adolescent. Activity in which there is a clear power difference between them and one child is coercing the other—usually to engage in adult-like sexual behavior—generally would be viewed as abuse. This is very different from behavior in children of about the same age that reflects normal sexual curiosity and mutual exploration (such as playing doctor). While some degree of sexual curiosity and exploration is to be expected between children of about the same age, when one child coerces another to engage in adult-like sexual activities, the behavior is unhealthy and abusive.

Age of Consent

Under North Dakota law N.D.C.C. § 14-10-17, any person age fourteen years or older may consent to receive examination, care, or treatment for sexually transmitted infections/diseases (STIs) without permission, authority, or consent of a parent or guardian.

In order to conduct a forensic medical examination of any victim under age eighteen, permission from a parent or guardian is required. In cases where a parent or guardian is unavailable or is intentionally preventing authorities from gathering evidence, an order

for temporary custody should be obtained from the Juvenile Court, through law enforcement or Child Protective Services.

Mandatory Reporting of Suspected Sexual Assault

According to North Dakota law, medical personnel are mandated to report violent crimes, including sexual assault. Medical personnel are required to notify local law enforcement authorities as soon as is practicable.

Pursuant to N.D.C.C. § 43-17.41, any physician, physician assistant, or any individual licensed under N.D.C.C. Chapter 43.12.1 (Nurse Practice Act) who performs any diagnosis or treatment of any individual suffering from any wound, injury, or the physical trauma that is inflicted with a knife, gun, or pistol is required to report the act to a law enforcement agency in the county in which care is rendered.

In addition, the same medical personnel who perform any diagnosis or treatment of any individual in which there is reasonable cause to suspect the wound or injury was inflicted in violation of any criminal law of the State are required to report the injury to a law enforcement agency. Therefore, the same medical personnel must report any suspected sexual assault.

This law does not apply to mental health professionals, clergy, or others providing services that are not related to physical injury of a crime victim.

Mandated Reporting of Sexual Assault, Current as of 2014.

Age of Victim	Age of Alleged Offender	Other Circumstances
Minor under 15	any age	Any sexual act/contact
Minor ages 15 to 17	any sexual activity with another individual ages 15 to 17 if:	use of threat, force, incapacitation, mental defect/disease, or in official custody
Minor ages 15 to 17	the adult is more than three years older than the minor	Any sexual activity with an adult

Mandatory Reporting of Child Abuse and Neglect

In order to protect children, the North Dakota law requires certain people in the community, who may have frequent contact with children and their families, to report

suspected child abuse and neglect. The law states that professionals that have direct care responsibilities with knowledge of, or reason to suspect that a child is being abused or neglected and, the information is received while in their professional capacity must report abuse. However, any person who suspects that a child is being abused or neglected may report.

50–25.1–03. Persons required and permitted to report

1. Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, addiction counselor, social worker, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee or member of the clergy having knowledge of or reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.
2. Any person having reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department.

When making a report, mandated reporters are required to file a written Suspected Child Abuse or Neglect Form (960 Report Form) with the local child protection services division of the local county social services department in which the child resides.

Disclosure

Disclosure can be a scary and difficult process for children. Some children who have been sexually abused may take weeks, months or even years to fully reveal what was done to them. Many children never tell anyone about the abuse. In general:

- Girls are more likely to disclose than boys
- Very young children tend to accidentally reveal abuse, because they don't have as much understanding of what occurred or the words to explain it
- School-aged children tend to tell a caregiver
- Adolescents are more likely to tell friends

Disclosure is often a difficult process for children. It is rarely a one-time event in which an interviewer sits down with a child and the child tells everything. Children often tell their stories over a period of time and some never fully tell what happened. Delayed disclosures are more common than not. Many children will never tell. Reasons many children don't disclose include:

- Fear the abuser may hurt them or their families
- Fear of not being believed, or will be blamed and get in trouble
- Worry that their parents will be upset or angry
- Shame or guilt
- Fear that disclosing will disrupt the family, especially if the perpetrator is a family member or friend
- Fear that if they tell, they will be taken away and separated from their family

Additionally, to most children telling means something very different than it does to adults. Children will say “Uncle Joe hurt me” and will assume adults know what they are talking about and will react to keep them safe. They don’t understand or comprehend why adults would need more information. Children making false allegations are rare.

Often there are times when you will encounter children who have been abused and they are emotionally upset, angry about the abuse or show extreme embarrassment. Children who are abused may suffer from depression and thus present with a flat affect or a matter-of-fact stance. Sometimes it can be difficult to believe that the incident occurred, especially violent abuse, when the child’s disclosure does not involve any emotion. The fact that the child may be depressed should be taken into account when making the assessment of the child’s statements. Children who dissociated during the trauma of abuse may also report their experience with the effect of an observer vs. a victim.

What to do if a Child Discloses

- Listen. Do not fill in words for the child.
- If the child is having a difficult time talking— don’t help the child with words that you think the child is going to say. Allow the child to tell you what happened in their own words.
- Tell the child that you are glad that they told you.
- Tell the child “It was not your fault.”
- Reassure the child that they are not in trouble.
- If the child asks you not to tell anyone, remind the child that it is your job to help keep them safe and you will do whatever you may need to do to keep them safe.
- Do not be overly critical of the offender. Children are protective of people they care about, even if they are being abused.
- Tell the child you believe them.
- Don’t express panic or shock.
- Use the child’s vocabulary to the child and when reporting.
- Be aware of your own feelings about abuse so that hopefully you will not project these onto the child.
- Do not ask probing questions.
- Remember you must report suspected abuse.

SEXUAL ASSAULT OF CHILDREN: LAW ENFORCEMENT AND CHILD PROTECTIVE SERVICES RESPONSE PROTOCOL

The law enforcement representative, in conjunction with the child protective services representative (when applicable), has the responsibility of investigating the allegations of child sexual assault.

When possible it is recommended a child victim be interviewed at a CAC, for a complete list, see Appendix K.

Advocacy

As with adults, an important first step in intervention is to help children regain a sense of control over their bodies. This may be aided by allowing them a choice of an advocate or their choice of a support person to be present during the physical examination. This support person could be a family member, a social worker, medical professional or a trained victim advocate.

The Forensic Interview

It is the responsibility of the investigating officer to ascertain the most supportive environment for the child during the interview. Privacy is, of course, crucial to the success of this interview. When possible, the interview of the child victim should take place at a child friendly facility by someone trained in forensic interviewing, such as a CAC. However, space adjacent to the emergency room or pediatrics unit of the examining hospital should always be provided for those situations where the interview must be held immediately after the medical examination.

If circumstances require a law enforcement interview, it is preferable that the officer be dressed in civilian clothing and not have handcuffs or weapons visible to the child. If wearing civilian clothes is not feasible, great care should be taken to minimize the amount of equipment carried during the interview so that it does not further intimidate or traumatize the child.

The goal of the interview with the child victim is to:

- Avoid further trauma to the child and offer protection to the child.
- Determine whether the assault was committed and if so by whom.
- Obtain accurate information needed for case investigation and medical treatment.

To minimize trauma caused by multiple interviews, a multi-disciplinary approach should be adopted. Specifically, it is recommended that a trained child forensic interviewer

work with law enforcement and social services when undertaking the full investigative interview.

The safety of the other children who live in the environment of the abuse will be determined by law enforcement and child protective services at the onset of the investigation. A safety plan should be developed prior to discharge for the victim and the other children.

It is important for all multi-disciplinary team members to be aware of their role in the interview. In all cases, each professional must be there for a specific purpose and must be psychologically supportive to the child.

Presence of Parent/Guardian

Under no circumstances should any interview be held in the presence of a parent/guardian who is a suspected offender.

As a general rule there are more disadvantages to having a parent or guardian, present during the forensic interview than advantages. In a rare case where a young child refuses to be interviewed without a parent or guardian, the purpose of the interview should be explained in a straight-forward manner, and cooperation should be elicited to reassure the child that it is "safe" to talk with the interviewer. The parent/guardian should also be told that any facial expressions of shock, disbelief, or disapproval, or any verbal or physical signals to the child could impede the interview.

SEXUAL ASSAULT OF CHILDREN: MEDICAL RESPONSE PROTOCOL

Acute Medical Treatment Process

For the purpose of forensic medical examination evidence collection, a child victim is defined as 13 years of age and under.

Each hospital that treats victims of sexual assault should have a multi-disciplinary team, available on an on-call basis, for the evaluation and examination of child sexual assault cases.

If possible, this team should consist of:

- a medical professional specially trained in performing sexual assault examinations
- an advocate
- a social worker to provide coordination with law enforcement

Each team member should be trained in the management and psychodynamics of child sexual assault victimization. Medical professionals should also be available on an on-call basis to provide consultation and follow-up when necessary.

In the absence of these resources, the minimum requirement should be transportation to a qualified treatment facility.

Intake

Child victims of sexual assault present to health care professionals in a variety of circumstances, but delayed disclosures are common in child sexual assault. Often children may take weeks, months or even years to disclose abuse. The guidelines listed below refer to cases in which there is “acute presentation” of sexual abuse. Acute presentation refers to those children who are presenting for evaluation within 96 hours of the reported assault.

With the acute presentation of child sexual assault, children are often brought to the health-care facility by a parent/guardian or law enforcement officer. The need for an examination may be considered a medical emergency if it is determined that the sexual assault has occurred within 96 hours or when bleeding, pain, and/or discharge are still present after 96 hours or on determination by the medical professional.

When an officer accompanies the child, the officer should be directed immediately to the emergency/pediatric department so that a brief history of the assault can be provided to the attending medical professional. The medical professional should gather information about the event from the parent/guardian and child, if possible.

Child sexual assault evaluation may involve careful questioning, evidence collection procedures and/or specialized evaluation techniques/equipment. Because of this, collaboration and/or referral to a health care professional with expertise in the evaluation of child sexual assault may be appropriate.

The attending medical professional should explain the physical examination and laboratory testing procedures to the child and the parents/guardians.

Consent

Under North Dakota law N.D.C.C. § 14-10-17, any person age fourteen years or older may consent to receive examination, care, or treatment for sexually transmitted infections/diseases (STIs) without permission, authority, or consent of a parent or guardian.

In order to conduct a forensic medical examination of any victim under age eighteen, permission from a parent or guardian is required. In cases where a parent or guardian is unavailable or is intentionally preventing authorities from gathering evidence, an order for temporary custody should be obtained from the Juvenile Court, through law enforcement or Child Protective Services.

This temporary custodial transfer by the court allows medical staff to provide diagnosis and treatment; child protective and law enforcement agencies to investigate the assault; and at least on a short-term basis, protection of the child from further abuse.

Authorization to Release Medical Information

Although there have been instances where a parent or guardian has refused to authorize the release of evidence to law enforcement in child sexual assault cases, the actual incidence of this has been very low and could be considered a crime when it interferes with the best interest of a child. If the local child protective service or law enforcement agency is not already involved in the case, they should be contacted for assistance by hospital personnel. Each individual hospital should ascertain the policy of their local child protection team.

Presence of Parent/Guardian

Under no circumstances should any evaluation be held in the presence of a parent/guardian who is a suspected offender.

In all cases of a known or a suspected child sexual assault, the team may be involved in the decision of whether or not the presence of a parent or guardian during the interview or medical examination is desirable. Ultimately the child themselves, if possible, should decide whether or not the presence of a parent or guardian during the interview or forensic medical examination is desirable.

Medical History

Prior to starting the forensic medical examination, an experienced medical provider should meet with the parents/guardians in a private area to obtain the child's medical history. The purpose of the history is to obtain the information necessary to conduct a proper forensic medical examination as well as lab testing and collection of physical evidence, when applicable. During the examination, additional questions may be asked to clarify any medical questions needed for treatment. Since children may disclose to health professionals information that they will not tell their parents or other adults, adolescents and older children should be encouraged to provide much of their own medical history. Any specific explanations given by the child for the injury should also be included in the medical history, using the child's exact words if possible. Information regarding medical history, sexual history (of both males and females), menstrual history, past incidents of abuse, suspicious injuries and use of birth control should be recorded.

Evidence Collection

Regardless of when the assault might have occurred, valuable evidence can still be obtained through a history and forensic medical examination of the child. Therefore it is vital that such an examination be performed (if consent is gained) and that all paperwork be completed, whether or not evidence specimen are collected.

If it was determined during the history that the last sexual contact took place more than 96 hours prior to the hospital visit, a careful evaluation must be made to decide which, if any, evidence collection procedures should be implemented.

If it was established that the last sexual contact took place within the prior 96 hours or if the time frame cannot be determined, evidence collection procedures should be implemented according to the adult instructions keeping in mind any special pediatrics considerations as noted.

Forensic Medical Examination

The physical examination of the child should not result in additional physical or emotional distress. The timing, location and provider of the medical evaluation should be considered carefully so that a skilled evaluation is completed and acute injuries/trace evidence is documented and preserved

Adequate time should be given to explain the process and equipment to help alleviate fears and anxiety. An immediate assessment of the child's physical status must be made to determine the presence trauma/sites of bleeding. If present, their control/stabilization must be the priority. Special attention should be given to possible areas of the body involved with sexual activity including the mouth, breasts, genitals, perineal region, buttocks and the anus.

The assessment should begin with a general overview of the child's body. The presence of genital and/or other types of physical injuries/abnormalities, signs of physical abuse neglect and self-injurious behaviors can serve as corroborative evidence and should be carefully recorded in the medical record. The location of these injuries should be recorded on drawings of the female and male body and photos should be taken for documentation if possible. Injuries to the genital and or anal areas should be documented by colposcopic photos if available. Inclusion of a measuring device is also important to document size of the injury. If a colposcope is not available, a camera with zoom/macro ability is also an acceptable alternative for documentation.

Signs of acute trauma are rare in children who are examined for sexual assault, therefore, injuries should be described and it is important to document photographically.

Female Genital Examination

For the young female child, a complete gynecological exam is not recommended unless there is evidence or reasonable suspicion of genital trauma. Intravaginal speculum examinations are never indicated for the pre-pubertal female unless there is vaginal bleeding or suspected foreign body. In cases where speculum evaluation is required, a small pediatric speculum should always be used and the evaluation should be completed under general anesthesia.

The examination should include inspection of the medial aspects of the thighs, labia majora and minora, clitoris, clitoral hood, urethra, periurethral tissues, hymen, hymenal opening, posterior fourchette, fossa navicularis and perineum for signs of lesions, scars, bruising, discharge or evidence of injury. The hymen should also be evaluated for signs of estrogen and vaginal discharge should also be noted. Sexual maturity should be documented using Tanner Staging.

Male Genital Examination

The thighs penis, glans, scrotum, urethral meatus and perineum should be observed for signs of lesions, scars, bruising, discharge or evidence of injury. Please note that both the glans and the scrotal area can be targets of trauma in acute sexual assault. Sexual maturity should be documented using Tanner Staging.

Examination of the Anal Area

The attending medical professional must decide on a case-by-case basis the extent to which anal examinations should be performed with female and male children during the initial examination. The anal area of both male and female patients would be evaluated for lesions, scars, bruising, fissures, discharge or evidence of injury. Recent anal trauma may manifest as perianal erythema, edema or contusions, skin tags, or spasm of the anal sphincter.

If an anal tear or bleeding is present, an anoscopy should be performed. If persistent rectal bleeding is present, anoscopy or surgical consult are needed. If the collection of a specimen is needed, only one swab should be used at a time to collect the specimen.

Sexual Assault Discharge Planning Form

A “Sexual Assault Discharge Planning Form” should be completed. The victim's parent or guardian should sign the form at the bottom and then receive a copy, see Appendix I.

Follow-Up Services

The provision of psychological or counseling services for children and their parents/guardians is crucial. If this service is not available through the hospital, a referral should be made to an appropriate agency or individual who has approved credentials and training in the field of child sexual assault.

It is extremely important that children return for a follow-up visit within one week (or sooner), so that any genital or other injuries can be re-evaluated (and documented). If necessary, repeat cultures can be performed. This follow-up visit will also provide the examining team an opportunity to assess how well the child and/or family are coping with the trauma and whether or not counseling has been received or is necessary.

Pre-pubertal Sexually Transmitted Infections (STI) Considerations

While adults and adolescents are often presumptively treated for STI's, this is not the standard of treatment for children. Presumptive or prophylactic treatment of STI's in pre-pubertal children is generally discouraged (without evidence of active infection) and should be made on an individual basis due of the following:

- low prevalence of infection for this age group
- legal ramifications of confirmed infections
- low incidence of developing ascending infections (pelvic inflammatory disease) in children

Depending of the type of abuse, the examiner may decide to conduct tests for STI's in children on an individual basis. According to the CDC treatment guidelines the following situations may place the child at risk for an STI and would be a strong indication for the decision to test.

- The child has or has had symptoms or signs of an STI or infection that can be sexually transmitted, even in the absence of suspicion of sexual abuse. These signs may include genital discharge, pain, itching or odor, urinary symptoms, and genital ulcers or lesions.
- The suspected perpetrator in the case is known to have an STI or be at high risk for an STI, example multiple sex partners or history of STI.

- The child lives in the home or immediate environment where a sibling or other child or adult has an STI.
- The patient or the parent requests the testing be completed.
- There is evidence or history of genital, oral or anal penetration or ejaculation.

If the child presents for the evaluation acutely (within 72 hours of the incident), insufficient concentrations of the organisms may be present to produce positive findings. If based on the history it is determined that laboratory testing is necessary, cultures should be collected at the initial visit and again 2 weeks later. Medical examiners should be competent in recognizing that many testing modalities are available and it is recommended that the most recently published *CDC STI Treatment Guidelines* be followed whenever possible. STI testing may include:

- Gonorrhea
- Chlamydia
- Hepatitis B
- HIV
- Syphilis
- Trichomonas and Bacterial Vaginosis

Although presumptive treatment may differ for pre-pubescent children, prophylaxis for some infections may be appropriate based on the supplied patient history. Infections that may require treatment at the time of the evaluation may include the following and should be based patient's history and on the current *CDC STI Treatment Guidelines*:

- HIV
- Tetanus
- Hepatitis B
- Positive testing of STI

Considerations for follow up laboratory testing should include the following:

- HIV, Syphilis, Hepatitis B at 6 weeks, 3 months and 6 months

OVERVIEW OF THE FORENSIC MEDICAL EXAMINATION FOR ALL VICTIMS

Prior to conducting a forensic medical examination it is necessary for the medical provider to ensure the victim has all pertinent information to make an informed decision regarding the forensic medical examination and all concerns have been addressed. Refer to Reporting Options for Victims of Sexual Assault section.

A medical examination should be performed in all cases of sexual assault (when consent is obtained), regardless of the length of time that may have elapsed between the time of the assault and the examination.

The determination to perform a forensic medical examination should be made by only the person reporting the sexual assault. If the person is physically unable to make this decision, there should be a consultation of the medical personnel, law enforcement, and a community based victim advocate and/or support personnel. A forensic medical examination, using the Sexual Assault Evidence Collection Kit, should also be performed if the assault occurred within the past 96 hours or per examiner's discretion depending on the assessment findings.

Drug-Facilitated Sexual Assault

If it is believed that an individual has been drugged to facilitate sexual assault, a urine collection sample should be obtained immediately – with informed consent. It is recommended that the procedure be performed using a State Toxicology Collection Kit from the Crime Laboratory Division of the North Dakota Attorney General's Office. In a drug-facilitated sexual assault case, the likelihood of detecting the drug used to commit the crime diminishes each time the victim urinates. Therefore, it is imperative that immediate action be taken to preserve the evidence.

There are several indications that should cause the attending medical personnel to suspect a drug-facilitated sexual assault. For instance, the victim may:

- give a history of having only one or two drinks and suddenly feeling “very drunk”
- report becoming highly intoxicated within a matter of five to fifteen minutes, especially after receiving a drink from someone or leaving a drink unattended
- describe “cameo appearances” – awakening, seeing the perpetrator, being unable to move, and then losing consciousness again
- exhibit signs of memory loss, dizziness, confusion, drowsiness, impaired motor skills, impaired judgment, reduced inhibition, or a variety of other symptoms
- appear intoxicated or “hung over.”

It should never be routine to collect drug screens on sexual assault patients.

Depending on the timeframe and circumstances, some of the above mentioned

symptoms may still be present when the victim speaks with attending medical personnel.

Unfortunately, perpetrators often use drugs to facilitate a sexual assault by incapacitating the victim. Examples of commonly-used drugs include:

Alcohol
Benzodiazepines (Rohypnol, Xanax, Valium)
Gamma Hydroxybutyrate/GHB
Ketamine
Sedatives
Codeine
Tetrahydrozoline (Visine)
Diphenhydramine (Benadryl)

For complete list see Appendix B

Alcohol

Alcohol is the drug most frequently used to facilitate sexual assault. Victims often believe that because they voluntarily consumed alcohol, ecstasy or some other drug, they are to blame for the assault. It is important for service providers to help victims understand that intoxication and the resulting diminished abilities are not causes of sexual assault; they are tools used to aid in commission of this crime.¹³

Alcohol is easily obtainable, socially accepted as a drug, and used frequently because the victim may voluntarily ingest it. Because alcohol consumption slows motor function and decreases inhibition, a perpetrator has a greater likelihood of subduing a victim who has ingested alcohol. Increased alcohol use leads to “blackout” stages in which an individual has no recollection of previous interactions with others. This “blackout” stage is often followed by a period of unconsciousness in which the victim loses control of her or his motor skills and experiences amnesia.

Benzodiazepines

Benzodiazepines are another class of drugs used in drug-facilitated sexual assault. Rohypnol, generically Flunitrazepam, is a benzodiazepine prescribed as a sleeping pill. This drug is similar to Valium but is approximately ten times stronger. In the United States, illegal use appears most frequently in conjunction with alcohol. Benzodiazepines cause muscle relaxation, slow psychomotor responses, and lower inhibitions. When taken in high doses or in combination with alcohol, they can cause blackouts, combined with amnesia, that last eight to twelve hours. During these blackout episodes, it is not uncommon for a victim to have a “cameo appearance” in which he or she sees the surroundings and the perpetrator but is unable to move or speak.

Perpetrators have been successful in administering Rohypnol to avoid drug charges. Routine benzodiazepine screens do not detect Rohypnol's presence, and traces in the blood and urine may only be detected for up to 8 to 12 hours after ingestion.

Street names for benzodiazepines include rophies, roofies, ruffies, R2, roofenol, Roche, roachies, la rocha, rope, and rib. Other benzodiazepines that may be used include Alprazolam (Xanax), Clonazepam (Klonopin), Diazepam (Valium), Flurazepam (Dalmane), or Lorazepam (Ativan).

Gamma Hydroxybutyrate (GHB)

Another drug commonly used in sexual assault, Gamma Hydroxybutyrate (GHB), is a fast-acting central nervous system depressant. It is produced in powder form, capsule, or as a colorless and odorless liquid with a salty taste. It has been used in Europe to induce short-term comas, for surgical anesthesia, as a treatment for narcolepsy, and in the withdrawal of alcohol and opiate addictions. GHB may produce a feeling more extreme than alcohol intoxication, resulting in decreased inhibition. Its effects are exacerbated, of course, when it is combined with alcohol. The effects can occur within 15 minutes to an hour of ingestion, possibly causing nausea, drowsiness, respiratory distress, dizziness, seizures, and amnesia with cameo experiences.

GHB has been marketed as a health food product for its hypnotic effects and to promote muscle development and weight loss. It has also been sold over the counter as a dietary supplement. Street names of GHB include liquid ecstasy, grievous bodily harm, Georgia home boy, liquid X, liquid E, soap, scoop, easy lay, salty water, cherry meth, zonked, and somotomax.

Clearly, when any drugs, including alcohol, are used in combination, the effects can be fatal for the victim. Immediate response is always required when medical personnel suspect that a victim of sexual assault may have ingested drugs of any kind.

Tetrahydrozoline (Visine Eye Drops)

Visine contains 0.05% tetrahydrozoline. Clinical effects from ingestion of tetrahydrozoline include drowsiness, coma, respiratory depression, bradycardia, hypotonia, muscle flaccidity and hypothermia. Ingestion of tetrahydrozoline would produce an obtunded, flaccid victim unable to resist or recall events that occurred during the periods of coma.¹⁴

The onset of action after ingestion of tetrahydrozoline is rapid, from 15 to 30 minutes. This rapid onset is a similar profile to other drugs used in drug facilitated sexual assault. The duration of action is reported as from 12 to 24 hours after ingestion.

Tetrahydrozoline is not currently screened by the North Dakota Office of Attorney General, Crime Laboratory Division.

Diphenhydramine (Benadryl)

Even less obvious drugs like Benadryl are playing a role in rapes and sexual assaults. Assaultants overdose their victims with Diphenhydramine. Diphenhydramine, an antihistamine with drying and sedative effects is used to help with allergies. Since the side effects ultimately result in a lifeless body, some perpetrators prefer the drug to eliminate victims' resistance.

Additional Information

If the sexual assault took place more than 96 hours prior to the examination, it is unlikely that trace evidence will be present on the victim. Evidence should still be gathered, however, by documenting any findings obtained during the medical examination; evidence can include documentation of bruises or lacerations, photographs, and statements the victim may make about the assault.

Some victims may ignore symptoms that would ordinarily indicate serious physical trauma, such as internal injuries sustained by blunt trauma or foreign objects inserted into body orifices. Please also be alert to areas of tenderness, which may later develop into bruises.

The majority of sexual assault victims seek medical treatment not for the forensic collection of evidence. Instead, they tend to be primarily concerned with the possibility of becoming pregnant or contracting a sexually transmitted infection (STI). Therefore, whether or not the victim agrees to the forensic collection of evidence, pregnancy and STIs must be addressed at the initial examination.

To ensure a complete evidentiary examination, the instructions in the Protocol must be followed. All potential forensic evidence should be collected.

Supplies for additional evidence collection may be obtained from the medical treatment facility's stock or from a second Evidence Collection Kit.

Attending Personnel

The attending medical personnel and a trained support person or advocate are the only persons who need to be with the victim in the examining room. Although every effort should be made to limit the number of individuals in attendance during the examination, there may also be instances when a victim requests the presence of a close friend or family member. If at all possible, these requests should be honored.

It is not necessary for a law enforcement representative, male or female, to observe the medical examination or evidence collection process. Medical and law enforcement personnel communication should be reciprocal, as the release of medical information

form indicates. Maintaining the chain of custody during the examination is the sole function of the attending medical personnel and requires no outside assistance.

Medical Report and Examination

The most efficient and least traumatic method of collecting physical evidence from sexual assault victims is to integrate the collection procedures into the medical examination.

Throughout the evaluation and medical examination, the attending medical personnel should explain to the victim:

- why questions are being asked
- why certain medical and evidentiary samples may need to be collected
- what treatment, if any, may be necessary
- when and where the examiner is going to touch the victim

When conducting the general medical examination, the following types of information should be evaluated and recorded in the medical record:

- Vital signs and other initial information, such as the date and time of both the examination and the assault.
- A brief description of the medical details of the assault, including areas of soreness, pain, lacerations, abrasions, bleeding, bruises, bite marks, blood, or other secretions, with particular attention to the genital and rectal areas of both male and female victims. Common sites of soreness, tenderness, injury, or redness include:
 - the breasts,
 - the upper portion of the inner thighs, arms, wrists, or legs; and
 - scalp area, back, or buttocks.
- The victim's account of what happened. This account permits the mapping of locations on the body where potential injury and evidence might be found.
- Information regarding the physical location of the assault (e.g. car, rug, grass, pavement). This information assists in determining where to look for evidence and what evidence to collect (e.g. hair, fibers, and other trace material).
- Significant medical history of the victim, including 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.

- Information on the gynecological history of female victims. This information includes menstrual history (last menstrual period, date and duration, menstrual cycle), pregnancy history (including evaluation of possible current pregnancy), and history of contraceptive use.

As part of the medical examination, a victim's risk of pregnancy should be assessed. A urine pregnancy test should be conducted to establish a baseline for possible preexisting pregnancy – before providing emergency contraception.

If victims report any possible bruising, arrangements should be made for follow-up documentation 48 hours after the forensic medical examination.

Integrity of the Medical Record and Interview

The indiscriminate use of the term “rape” or “sexual assault” on a medical document is a conclusion that may prejudice future legal proceedings. Instead, the diagnosis on the chart should be stated as “sexual assault examination,” plus any pertinent medical findings.

In addition, an important distinction must be made between information gathered for the purpose of providing medical treatment and information gathered for the follow-up investigation and potential prosecution.

Hospital personnel should not be expected to expand their role to that of “investigator.” As such, they should not ask for details beyond those necessary to perform the medical and evidentiary collection tasks. It is the responsibility of the law enforcement officer to ask the more detailed questions for the purpose of in-depth investigation.

Presence or Non-Presence of Semen

The forensic examiner is particularly interested in the presence of seminal plasma in cases where a sexual assault is alleged to have occurred with a male perpetrator. It is primarily the spermatozoa (semen and seminal fluid), which gives evidence of the genetic markers of the donor of the specimen. Seminal plasma is produced in the ejaculation of all males, whether the male has had a vasectomy or not.

Even when seminal fluid is not evident, a sexual assault may have occurred. The seminal fluid may have been destroyed after being deposited, or it may never have been deposited at all. Seminal fluid may not be present for a number of reasons: The increase in the number of vasectomies in the U.S, sexual dysfunction of offenders who may not ejaculate during the assault, use of a condom, low sperm count - which is frequent with heavy drug or alcohol use, the perpetrator may have ejaculated somewhere other than in an orifice or on the victim's clothes or body, and non-ejaculation in cases where the assault may have been interrupted.

Furthermore, the absence of semen can mean either that no ejaculation occurred, for the reasons previously stated or that various other factors contributed to the absence of detectable amounts of semen in the specimen. For example, there could have been a significant time delay between the assault and the collection of the specimen, penetration of the victim could have been made by an object other than the penis, the victim could have inadvertently cleaned or washed away the semen, or the specimen could have been collected improperly.

As a result, the medical facility should not administer an analysis of smears to determine the presence of sperm obtained during the evidence collection process.

Please note: When collecting the vaginal specimen, water may be used to lubricate the speculum.

Permanent Smears

Permanent smears (dry mount slides) should be made from the samples obtained. Permanent smears must be labeled, retained as evidence, and placed in the kit before sealing.

It is recommended that testing for the presence of motile sperm NOT be conducted at the medical facility. It is not uncommon for the tests run at the Crime Laboratory Division to contradict those run at the medical facility. Because of the enhanced detection ability of the Crime Laboratory Division, for instance, traces of semen may be found despite negative test results from the hospital. Forensic personnel must then testify in court to explain the contradiction.

To minimize the chance of contradictions occurring, all medical and forensic specimens collected during the sexual assault examination must be kept separate – both in terms of collection and processing.

Those specimens that are required only for medical purposes should be kept and processed at the examining hospital; those specimens that are required strictly for forensic analysis should be transferred with the Sexual Assault Evidence Collection Kit to the Crime Laboratory Division for interpretation.

Collection of Secretions on the Body

The most appropriate technique in terms of collecting secretions is to swab areas on the body that pertain to the history of the assault. A Wood's Lamp/Alternate Light Source (ALS) is a limited tool in the detection of secretions. While the use of a Wood's Lamp/ALS is shown to be effective in identifying protein-based secretions, saliva and other body fluids may not illuminate under a Wood's Lamp/ALS. Therefore, sterile cotton swabs of areas on the body should be collected, as indicated by the victim's history of the assault.

If secretions are found on the hair, the matted hair can be cut and placed in a paper bindle. Medical personnel must be careful, however, to obtain consent from the victim before cutting hair.

Thinner stains can be collected with the use of sterile cotton swabs that are moistened in distilled water, and then air dried and packaged in an envelope or tube. Secretions that are still moist can be collected with dry sterile cotton swabs to avoid dilution, air dried, and packaged in the same way.

Use of Photographic Documentation

The use of magnified photography is recommended to document evidence of injuries. Video or camera equipment can easily be attached to a colposcope, and these results can be used as forensic documentation. The non-invasive nature of this procedure makes it valuable for use with all victims, especially children and the elderly.

Although magnified photography is preferred, a digital camera is considered acceptable.

Toluidine Blue Injury Detection

Toluidine Blue may be used to aid in the detection and visualization of injury to the external genitalia.

- Toluidine Blue can be gently swabbed onto the external genitalia.
- The dye should be allowed to dry for approximately one minute.
- It should then be decolorized by wiping with a cotton-tipped applicator that has been moistened with lubricating jelly.
- This wiping should be repeated until no further recovery of dye occurs.
- At this point, photographs and written documentation should be made of any injuries that are indicated by the retention of the Toluidine Blue in the exposed nucleus of ruptured cells.

Pregnancy and Sexually Transmitted Infections

A major fear for most female sexual assault victims is becoming pregnant. The attending medical personnel should discuss this possibility with the victim and explain her options for pregnancy prevention.

Medical treatment facilities should offer emergency contraception as a minimum standard of care. This standard applies to all women who are at risk of pregnancy. This option should be offered to victims along with information regarding the risk of pregnancy, effectiveness, and side effects of treatment.

In addition to the risks of pregnancy, sexual assault may cause the victim to contract a sexually transmitted infection (STI).

Best practices have confirmed that prophylactic treatment of STIs – rather than performing cultures – results in more desirable outcomes.

Pre-pubertal Sexual Transmitted Infections (STI) Considerations

While adults and adolescents are often presumptively treated for STI's this is not standard of treatment for children. For more information see the pediatric section.

Payment for Sexual Assault Forensic Medical Examinations

Under N.D.C.C. § 12.1-34-07 a victim of sexual assault is not required to pay for any prescreening or examination for the purpose of gathering evidence for a possible prosecution, including the cost of antibiotics and other medications administered as part of the examination. The hospital or clinic where the victim is examined will be reimbursed directly by the North Dakota Office of Attorney General. The medical facility cannot bill you or your insurance company for these costs.

The victim will be responsible for the costs of additional care they may receive not related to the collection of evidence, such as x-rays, stitches, hospitalization, pain medication and counseling. The victim may be asked to provide insurance information and/or eligibility for Medicaid or Indian Health Services. If they do not have coverage, or there are costs not covered by insurance, they may be eligible to have these costs paid by the North Dakota Crime Victims Compensation Fund. Pursuant to N.D.C.C. § 54-23.4-16, the victim can receive victim compensation funds if they report the crime to law enforcement within 96 hours of the occurrence and cooperate with law enforcement and prosecution.

Due to the particular dynamics of sexual assault, however, Crime Victims' Compensation allows for a "cause exemption" in cases of sexual assault. This exemption permits victims to seek compensation when cause is established for inability to meet eligibility requirements. For additional information on exceptions and eligibility contact ND Crime Victim's Compensation: 701-328-6195 or 1-800-445-2322 (see Appendix M).

THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT

Instructions

The following sections of the Protocol detail the necessary steps for evidence collection as part of the Sexual Assault Forensic Examination. These steps supplement the instructions included in the kit.

As soon as the seal on the kit is broken by the evidence collector physical custody must be maintained, the evidence collector cannot leave the kit unattended.

Contents of the Evidence Collection Kit

The contents of the kit include a number of documentation forms, as well as items to aid the collection and preservation of evidence.

The following forms can be found on the top of the kit:

Guide to the Legal Process

Sexual Assault Forensic Examination Procedures Chart Summary (Appendix A, bottom of kit)

Blood and Urine Drug Screen Analytes (Appendix B)

HIPAA Authorization for Release (Appendix C) (Step 1)

Informed Consent for Examination and Treatment (Appendix D) (Step 2)

Urine Sample (Step 3)

Forensic Medical Examination Reimbursement- on outside of kit

The following items can be found inside the kit (materials needed to collect each piece of evidence is included in each envelope provided in kit):

Sexual Assault Report Form for Crime Laboratory (Step 4A and 4B)

Clothing Collection (outerwear, pants, shirt, underwear, and bra) (Step 5A-5E)

Foreign Material (Step 6)

Clothing Documentation (Step 7)

Oral Swabs with Dental Floss (Step 8)

Dried Body Secretions (Step 9)

Fingernail Scrapings (Step 10)

Head Hair Combing (Step 11)

Physical Condition Documentation Form (Step 12A, 12B, and 12C)

Pubic Hair Combing (Step 13)

Vaginal and Penile Swabs and Smears (Step 14)

Rectal Swabs (Step 15)

Known Saliva Sample (Step 16)

Known Blood Sample (Step 17)

STEP 1:

HIPAA Authorization for Release

A copy of this form can be found in the kit itself and in Appendix C of this document.

The “HIPAA Authorization for Release” pertains to release of information. When a patient signs this form – or a copy of it – she or he permits attending evidence collector to communicate with advocates, law enforcement, and the state’s attorney’s office about information gathered during administration of the forensic medical examination.

Items obtained as evidence may be released from a hospital and/or SANE program only if this written authorization is in place. Therefore, it is important to obtain consent prior to collecting evidence.

An informed adult patient, age 18 or older, may sign the authorization. If the patient is a child, however, or appears unable to understand or execute the release, an authorized third party may act on the patient’s behalf; refer to page 42 for more information.

In general, the following signatures must be obtained regarding the release of items collected as evidence:

1. Signature of the patient or authorized third party on the “Authorization” form.
2. Signature of the evidence collector turning over the evidence.
3. Signature of the law enforcement representative taking custody of the evidence.

STEP 2

Informed Consent for Examination and Treatment

A copy of this form can be found within the kit and in Appendix D of this document.

It is standard practice in any medical facility to receive informed consent prior to administering any procedure, treatment, or care. The same standard of practice pertains to a patient who presents with a history of sexual assault.

Prior to any evidence collection or treatment, the informed consent form should be signed by the adult patient or by an authorized third party.

One copy of this form should remain with the patient’s medical records or SANE records, and one copy should be sealed in the kit.

STEP 3

Urine Sample Collection Kit

In the urine collection kit use a sterile urine container – one from either the hospital supply or the Urine Toxicology Kit from the Crime Laboratory Division.

There are two absolutely crucial practices regarding evidence collection, drug screening, and sexual assault:

It should never be routine to collect drug screens on sexual assault patients.

Before a specimen can be collected, the patient must give informed consent to the drug screen.

The patient can give informed consent on the form mentioned in Step 1 – “HIPAA Authorization for Release.” She or he gives consent by initialing this sentence on the form:

“The results of tests for the presence of drugs, legal or illicit, from the urine sample collected.”

If attending evidence collector suspects a drug-facilitated sexual assault, they should abide by the following procedures:

- Explain to the patient the need to collect a urine sample for a drug screen – and why (i.e. a drug-facilitated sexual assault is alleged).
- Clearly inform the patient that a urine sample can indicate any illegal or prescription drugs that he or she may have taken during the previous several days or months.
- Explain that he or she may decline the drug screen.
- Determine whether ingestion of the drug in question occurred within the previous 24 hours. If so, immediately collect a urine specimen as specified below.
 - Preferred collection is at least 100 ml of urine. If it is not possible to collect 100 ml, at least 30 ml should be collected.
 - Label the container with the patient’s name and the date and time of collection.
 - Seal the container and place it in a reseal-able plastic bag to avoid leakage.

- Indicate on the documentation provided in the kit that a drug-facilitated sexual assault is alleged.
- Freeze the specimen, maintaining appropriate procedures for chain-of-evidence.
- Document
 - the estimated date and time the alleged drug ingestion occurred;
 - if the patient urinated since the estimated time of ingestion; and
 - whether the patient has taken any prescription or over-the-counter medications during the previous week:
 - if so, the names of these medications, as well as the dates and times they were taken.

STEP 4

Sexual Assault Report Form for Crime Laboratory

A copy of this form can be found within the kit and in Appendix E of this document.

It can be helpful to the Crime Laboratory Division to receive certain written information with the kit. However, medical records may contain confidential information that is not required for the forensic examination. Therefore, in the interest of protecting and maintaining patient confidentiality, a separate form is recommended for the purpose of providing information that is required solely for the forensic analysis of evidence.

Examples of confidential medical information not relevant to the forensic evaluation of evidence include the following:

- Information concerning gynecological history, such as abortions, past or current pregnancy, hysterectomy, or and tubal ligation.
- Information on the patient's emotional status, drug allergies, or past medical concerns, such as cancer.

The following information should be included with the evidence sent to the Crime Laboratory Division:

- Date and time of collection, as well as date and time of assault.
 - This includes information regarding period of time that has elapsed between the assault and the collection of evidence.

- Number and gender of alleged perpetrators.
 - The cross-transfer of trace materials may include foreign hair and the deposit of secretions from the perpetrator(s) on the patient. Knowing the number of perpetrators in advance enables the Crime Laboratory Division to assess the evidence more thoroughly from the patient's specimens, the scene of the crime, and the assailant(s).
 - Information regarding the gender(s) of the perpetrator(s) assists the Crime Laboratory Division to determine, among other things, the type of foreign secretions (i.e. blood, saliva, seminal or vaginal secretions) that might be found on the patient's body and clothing.

- Actions of the patient since the assault.
 - The quality of evidence can be critically affected both by the patient's actions and by the passage of time. For example, self cleansing by the patient – as well as length of time that elapsed between the assault and collection of evidence – can affect the drainage of semen from the vagina or rectum. Trace evidence can also be lost such as evidence such as foreign hair, fibers, plant material, or other microscopic debris deposited on the patient by the perpetrator or transferred to the patient at the crime scene.
 - The Crime Laboratory Division should be informed by completing about which activities the patient performed prior to examination – activities including bathing, urination, brushing of teeth, and changing of clothes, etc. all of which could explain any absence of secretions or other foreign materials. For example, douching would have an obvious chemical effect on the quantity and quality of semen remaining in the vagina.

- Information regarding contraceptive use and menstruation.
 - Various contraceptive preparations can interfere with accurate interpretation of the preliminary chemical test that is frequently used by the Crime Laboratory Division in the analysis of potential seminal stains. In addition, contraceptive foams or creams can destroy spermatozoa.
 - The documentation of whether a condom was used can be helpful in explaining the absence of semen.
 - 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 perpetrator.
 - Tampons and sanitary napkins if present during the exam can absorb the perpetrator's semen, as well as any menstrual blood. In addition, the

presence of blood on the vaginal swab can be the result of trauma, menstruation, or both. Collect tampons and sanitary napkins in a sterile urine specimen container. Place in a paper bag and seal with evidence tape and place in refrigerator.

- Details of the sexual assault.
 - An accurate description of the sexual assault as reported by the patient is crucial to the proper collection, detection, and analysis of physical evidence. This description should include information as to whether there was oral, rectal, or vaginal penetration of the patient; oral contact by the perpetrator; ejaculation (if known by the patient); and penetration digitally or with a foreign object(s).
- Details of physical examination.
 - In the search for cross transfer of trace evidence, the location and extent of injuries sustained by the patient should be documented. This information enables the Crime Laboratory Division to ascertain whether the patient's blood, for instance, might be found on the body or clothing of the perpetrator, as well as at the crime scene.
 - If the patient was bitten, the perpetrator's saliva may have been deposited on the patient's body or clothing. As such, swabs should be taken of those specific areas of the patient's body. In addition, the Crime Laboratory Division must know where any bites occurred, so that they may perform an effective search for possible saliva stains on the patient's clothing.
 - Bruises, cuts, scrapes, other injuries and markings or foreign material may be visible on the patient's body and should be photographed. This photographic documentation is critical in corroborating the patient's statement. Because bruises do not tend to appear until days after the assault, however, arrangements should be made with the patient so that visible, developing bruises can be photographed at a later date if possible.

STEP 5

Outer Clothing and Underwear Collection

Clothing Evidence

Clothing often contains important evidence:

Clothing can be used for comparing trace evidence from the patient's clothing with trace evidence collected from the perpetrator or the crime scene. Clothing offers a surface on which traces of foreign matter may be found, such as the perpetrator's semen, saliva, blood, hair, and fibers, as well as debris from the crime scene. Though foreign matter

can be washed or worn off the body of the patient, the same substances can often be found intact on clothing for a considerable length of time following the assault.

Damaged or torn clothing may serve as significant evidence itself. Clothing may offer physical evidence of force or struggle.

Clothing Collection Procedures

Trace evidence may be present on items that come into contact with the patient's clothing.

Before any clothing is collected as evidence, the patient's consent must be confirmed and the reasons for clothing collection must be fully explained.

- If the patient was wrapped or resting in a sheet during emergency transport to the treatment facility, the sheet should be collected.
- To minimize loss of evidence, the patient should disrobe over a white cloth or sheet of paper. This white cloth or sheet of paper should also be collected.

All pertinent clothing should be collected in accordance with the following procedures:

- If the patient cannot undress without assistance, such that items of clothing must be cut away, no cuts should be made through existing rips, tears, or stains.

In all cases where the patient gives consent for the collection of clothing, the underwear that he or she is wearing during or immediately after the assault (if different) should be collected.

Depending on the details of the assault, hosiery, blouses, shirts, and slacks are likely to be sources of evidence. There also are instances when coats and even shoes may contain evidence and should be collected.

Prior to the full examination, great care must be taken by the attending evidence collector to determine if the patient is wearing the same clothing he or she wore during or immediately following the assault. If so, any clothing should be collected that appears to be torn or damaged or to contain debris, hair, or stains related to the assault.

If it is determined that the patient is not wearing the same clothing involved in the assault, the attending evidence collector should inquire as to the location of the original clothing (i.e. at the patient's home or at the laundry for cleaning).

- 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.

Any statement the patient makes that pertains to her or his clothing should be documented in quotation marks in the “Details” section of the “Sexual Assault Form for Crime Laboratory” (i.e. “He grabbed my left arm.”), refer to Appendix E.

Clothing Packaging Procedures

It is imperative that clothing be packaged separately from the kit and sealed with evidence tape with the evidence collector’s initials across the seal, both to prevent cross-contamination and to enable the Crime Laboratory Division to reconstruct the crime.

For example, if semen in the female patient's undergarments is accidentally transferred to her bra or scarf during packaging, the finding of semen on those garments might appear contradictory to the patient's own testimony in court.

Thus, the following procedures should be followed in the packaging of clothing:

- Wet stains such as blood or semen should be air dried.
- After the evidence is properly air dried, all items should be placed in separate and appropriate sized paper bags.
 - Small items (i.e. undergarments, camisole, hosiery, slip, bra) should be placed in separate small paper bags.
 - Larger items (i.e. pants, dress, shirt, coat) should be placed in separate larger paper bags.
- Each item of clothing should be packaged individually with a piece of paper placed against any stain, so that the stain is not in contact with the bag or with other parts of the clothing.
- Each item of clothing should be individually bagged. The kit contains paper bags for outerwear, pants, shirt, underwear, and bra. If the kit does not contain enough paper bags, any clean paper bag is acceptable.

STEP 6

Foreign Material Collection

Any foreign materials should be collected, placed in a small paper envelope, properly labeled, and sealed with evidence tape and initialed over the seal by the evidence collector.

The clothing is **NOT** to be placed inside the kit.

STEP 7

Clothing Documentation

A copy of this form can be found within the kit and in Appendix G of this document.

In order to maintain the chain of evidence, documentation shall be made of all articles of clothing that are collected. Upon initial assessment if clothing appears ripped, stained, or disheveled; photograph the patient wearing the clothing and take additional photos of clothing without the patient.

Clothing may contain stains, rips, cuts, stretches, blood, hair, saliva, or other trace evidence that can corroborate a patient's statement. All such trace evidence should be documented for personnel at the Crime Laboratory Division. Collected clothing should be packaged separately and not placed in the Sexual Assault Evidence Collection Kit.

In addition, each item should be carefully inspected, so that clothing can be packaged in a way that protects stains, marks, and alterations from cross-contamination. Each package shall be labeled and sealed with evidence tape or appropriate adhesive tape and initialed by the evidence collector. Additional evidence collection bags can be obtained from your local law enforcement agency.

STEP 8

Oral Swab and Flossing Collection

The purpose of this test is to recover possible seminal fluid from recesses in the oral cavity where traces of semen could survive.

Because the oral samples can be as important as the vaginal or anal specimens, the following procedures should be closely followed:

- Two sterile cotton swabs should be used to swab the mouth.
 - Attention should be given to the areas where seminal material might remain for the longest period of time, such as between the upper and lower lips and gum and under the tongue.

If the patient reports that oral copulation occurred, unflavored floss or floss sticks may be used to floss the patient's teeth.

If floss is used, only the used portion should be packaged.

Floss should be placed in a paper envelope.

When the oral swabs have air dried, they should be inserted into a carton, sealed and labeled.

A colposcope or camera may be used to document oral injury.

STEP 9

Dried Secretions

Dried Fluid or Dried Secretions Procedure

Semen and blood are the most common secretions deposited on the patient by the perpetrator. Other secretions, such as saliva, can also be analyzed to aid in the identification of the perpetrator.

A number of procedures should be followed in collecting dried secretion:

- During the examination itself, evidence collector should examine the patient's body for evidence of foreign matter.
- Dried secretions (such as blood or semen) should be collected by slightly moistening a sterile cotton swab with saline, sterile or distilled water, and then swabbing the indicated area.
 - A different sterile cotton swab should be used for each secretion collected from each location on the body. If the area to be swabbed is larger than the tip of your swab, two swabs should be used.
 - Extra supplies are not provided in the kit; however, so available hospital or clinic supplies should be used.
- The swab should be allowed to dry and then returned to the carton provided in the kit.
 - If no carton is available, the cotton swab should be allowed to dry and then placed in an envelope and placed in the kit.
 - The label must indicate the location of the secretion on the patient's body as noted on the diagram.

STEP 10

Fingernail Scrapings

During a physical crime, a patient comes into contact with both the environment and the perpetrator. Trace materials – such as skin, blood, hair, soil, and fibers from upholstery, carpeting, blankets, etc. – can collect under the fingernails of the patient. As such,

fingernail scrapings are collected as potentially useful evidence of cross-transfer or identification.

The following procedures should be maintained in obtaining fingernail scrapings:

- Determination should be made as to whether a patient may have scratched the perpetrator's face, body, or clothing.
- Scrapings for each hand should be made over a separate piece of paper and placed in same envelope (i.e. one paper for the left hand, one for the right) and labeled.
- The patient's fingernails should be scraped, one hand at a time, using the scrapers provided in the kit.
- If fingernail damage is present, the nail should be clipped proximal to the damage. A patient may want to perform this function and should be encouraged to do so. Nails should **NOT** be clipped unless they are damaged or broken.

STEP 11

Head Hair Combing

In order to collect all loose hair and fibers, the patient's head hair – top, back, front, and sides – should be combed over a piece of paper.

The combings, comb, and paper should be placed in an envelope marked “head hair combings.”

STEP 12A, 12B and 12C

Documentation of Physical Condition

A copy of these forms can be found in the kit and in Appendix H of this document.

Diagrams

The Sexual Assault Evidence Collection Kit includes diagrams of adult male and female figures. In addition to a written description of the trauma, these diagrams should be used to indicate the location and size of any injuries. In order to document any injuries to child patients of sexual assault, these adult figures should be adapted.

Photographs

Photographs of extremely brutal injuries or bite marks can prove beneficial in court. Because some injuries become apparent only after several days, however, there is no guarantee that photographs will show the extent or the severity of the injury. Consequently, photographs should only be taken in those instances where clear pictorial evidence of injury, such as bruises or lacerations, can be obtained. Cameras equipped with ultraviolet lenses may show injuries not visible to the naked eye.

Colposcope

Pictures taken by trained personnel during a colposcope examination may show extremely small injuries that can only be seen with the aid of this equipment. If these photographs are not available, drawings and accurate written descriptions are essential in court proceedings.

Bite Mark Evidence Collection

Bite marks found on the patient should not be overlooked as important evidence.

In cases where a bite mark is present, minimum procedures include collecting saliva, providing documentation, and photographing the affected area:

Saliva from the bite mark should be collected before cleansing or dressing any wound.

Saliva should be collected from the bite mark area by moistening a sterile cotton swab with saline, sterile or distilled water and gently swabbing the affected area. The same procedure for collection of other dried fluids should be followed.

Bite marks should be noted on the body diagrams.

To demonstrate the size of the bite mark, an American Board of Forensic Odontology (ABFO) Measurement Tool (ruler) should be placed adjacent to – but not covering – the bite mark. The bite mark should then be photographed. (Please note that these supplies are not provided in the kit.)

In order to show different signs of bite marks and bruising and to prevent the camera's flash from "washing out" the bruise, it is recommended that at least three photographs be taken of each target area: (1) straight on; (2) at a slight angle; and (3) at an increased angle. For close-up photographs, an SRL camera is recommended; however, a digital camera is acceptable. Avoid florescent lighting, as it may "wash out" any bruising. The responding officer or investigator can offer additional suggestions regarding effective camera use.

STEP 13

Pubic Hair Combing

The following procedures should be used in gathering evidence from pubic hair:

In order to collect falling hair and other evidence, a piece of paper or paper towel should be placed beneath the area of combing.

A comb should be used to collect any loose hair or fibers from the pubic area. A patient may prefer to do the combing so as to reduce embarrassment and maintain a sense of control over her or his body.

The combing should be performed in a thorough manner so evidence can be collected.

If dried secretions are present, this evidence may be collected in the same manner as other dried fluids. The swab should then be placed in a small paper envelope and labeled "possible secretion sample from pubic hair."

Although this evidence can be collected by cutting off the matter or material, the patient must give permission before any significant amount of hair is removed.

The pubic hair combings and the comb should be placed in an envelope marked "pubic hair combings." After all the labeling information is complete, the envelope should be sealed with tape and initialed by the evidence collector.

If no pubic hair is present, indicate on envelope "no pubic hair noted."

STEP 14

Vaginal or Penile Swabs and Smears

Important Information

The purpose of making smears is to allow the Crime Laboratory Division to test microscopically for the presence of spermatozoa. If spermatozoa are not detected, the analyst uses the swab(s) to identify the components of seminal plasma and thus confirm the presence of semen.

The number of tests that forensic laboratories can perform is limited by the quantity of semen or other fluids collected. Therefore, four sterile cotton swabs should be used when collecting specimens from body orifices.

It is recommended that the patient be encouraged to allow three orifices – mouth, vagina, and rectum – to be examined and specimens to be collected from them. Depending upon the type of sexual assault, penetration may have occurred in any of

these orifices. In addition, semen may leak from the vagina or penis into the anus, even without rectal penetration. Due to embarrassment, trauma, or a lack of understanding of the assault, the patient may be vague or mistaken about the areas of sexual contact.

In cases where a patient insists that contact involved only one or two orifices – or no orifices at all – the patient has the right to decline these additional examinations, to provide a sense of control to the patient.

If a patient must use bathroom facilities prior to evidence collection, he or she should be cautioned that semen or other evidence may be present in pubic, genital, or rectal areas. Special care should be taken not to wash or wipe away those secretions until after the evidence has been collected.

When taking swabs, the examiner should take special care **NOT** to use the same cotton swab when collecting secretions or material from other areas – such as vaginal to rectal, oral to vaginal, bite mark to vaginal or penile to rectal. Such practices could jeopardize future court proceedings. Use appropriate swabs provided for each step.

Vaginal Swabs and Smears Collection

Vaginal smears should be prepared using the following procedures:

- As vaginal specimens are collected, the vaginal orifice must not be aspirated and secretions must not be diluted in any way. Sterile or distilled water should be used, if necessary, water-based lubricant may be used to enable insertion of a speculum or anal probe.
- Documentation must be provided on the examination form (reference form in kit **OR** on the envelope provided), indicating which, if any, lubricant was used. This information enables the Crime Laboratory Division to separate chemicals used in evidence collection from any that pertain to physical evidence.
- The vaginal vault should be swabbed using two sterile cotton swabs together.
- The sample should be rolled across the frosted side of the microscope slide.
- The swabbing (with another two sterile cotton swabs) should be repeated, as should the slide preparation. A total of four sterile cotton swabs and two slides should be collected.
- The frosted-end slides must be properly labeled and include the word “vaginal” to indicate the origin of the specimen. To prevent smudging of labeling information, a pencil should be used.
- No slide should be fixed or stained.

- Each glass slide should be permitted to dry and then returned to the container. Complete the information on the affixed label on the slide container.
- After being allowed to air-dry, vaginal cotton swabs should be placed in a cardboard carton. The end flaps of the carton should be sealed, taking care not to cover the air hole with evidence tape. Complete information on the carton; **only two swabs per carton.**

Penile Swabs

If the Sexual Assault Evidence Collection Kit is available, the envelope labeled “Vaginal Smear/Swab” should be used for penile swabs.

For the male adult and child patient, 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. Feces, seminal plasma, or lubricants might be found if rectal penetrations occurred.

Specific procedures for the collection of penile swabs include the following:

- Two sterile cotton swabs should be slightly moistened with sterile or distilled water.
- The external surface of the penile shaft and glans should be thoroughly swabbed, using the two sterile cotton swabs together. In addition, any outer areas of the penis and/or scrotum should be swabbed where sexual contact is alleged or reported.
- The above process should be repeated with another set of sterile swabs. A total of four cotton swabs should be collected.
- After being allowed to air-dry, penile cotton swabs should be placed in a carton. The end flaps of the carton should be sealed, taking care not to cover the air hole with evidence tape. Complete information on the carton; **only two swabs per carton.**

STEP 15

Rectal Swabs

The following are procedures for collecting rectal swabs:

- Two cotton sterile swabs should be moistened with sterile or distilled water.

- The rectal area should be thoroughly swabbed, using the two moistened sterile cotton swabs together.
- The above process should be repeated with another set of sterile cotton swabs. A total of four swabs should be collected.

After being allowed to air dry, rectal cotton swabs should be placed in a carton. The end flaps of the carton should be sealed, taking care not to cover the air hole with evidence tape. Complete information on the carton; **only two swabs per carton.**

When taking swabs, the examiner should take special care **NOT** to use the same swab when collecting secretions or material from other areas – such as vaginal to rectal, oral to vaginal, bite mark to vaginal or penile to rectal. Such practices could jeopardize future court proceedings.

STEP 16

Known Saliva Sample

Deoxyribonucleic Acid (DNA) Profiling

The purpose of collecting known saliva and blood samples is for DNA (deoxyribonucleic acid) profiling. As the fundamental building block of an individual's genetic makeup, DNA is a component of virtually every cell in the human body – including semen or other bodily fluids.

DNA found in the patient's saliva and blood samples can be compared with DNA found in samples obtained from the patient's clothing, swabs, and body. This comparison can enable the Crime Laboratory Division to identify the DNA of the possible perpetrator(s).

Currently, every state in the U.S. participates in the "Combined DNA Index System" (CODIS). North Dakota began its participation in December of 2000. An electronic database of DNA profiles, CODIS can help to identify alleged perpetrators in crimes such as sexual assault, murder, and child abuse.

Upon conviction and sample analysis, a perpetrator's DNA profile is entered into the CODIS database. Subsequently, DNA evidence found at future crime scenes can be put through the system, potentially enabling law enforcement to link perpetrators to other crimes.

Saliva Specimen Collection

The following procedures should be maintained in collecting the saliva sample:

- The patient should not eat, drink, or smoke for a minimum of 15 minutes prior to the collection of this saliva sample.
- Filter paper discs – not gauze pads – should be used in collecting the saliva sample. The loose weave of gauze pads can disperse the saliva, making the specimen more difficult to analyze; in addition, filter paper discs dry more quickly. The filter disc and envelope are provided in the kit.
- The patient should be instructed:
 - to place the disc, manually, in her or his mouth, saturating it with saliva, not to chew the disc, but to moisten it for a few seconds.
 - to remove the disc with his or her own fingers; the evidence collector can remove the disc with gloved hands.
 - If the patient is unable to administer the procedure without assistance, a hemostat may be used. Because the slightest contamination from another person's secretions may be detected, however, the evidence collector can remove the disc with gloved hands.
- When dry, the disc should be completely inserted into its original envelope. Labeling information should then be completed, and the envelope should be sealed with evidence tape.

STEP 17

Known Blood Sample

For information on DNA profiling, please refer to STEP 16 above.

Blood Sample Collection

The following procedures should be maintained when collecting a blood sample:

- Prior to collecting blood sample use an alcohol swab to clean sample area.
- Using the lancet included in the Sexual Assault Evidence Collection Kit, the skin should be pierced at the end of one of the fingers.
- Three to five droplets of blood should be placed on a paper disc.
- The disc should be allowed to air dry, placed in an envelope, sealed, and labeled.

FINAL KIT INSTRUCTIONS

When all evidence specimens have been collected by the evidence collector, the specimens should be placed in the Sexual Assault Evidence Collection Kit:

- All items must be properly labeled and sealed with evidence tape.
- Any unused kit components or medical specimen collected for non-evidentiary purposes should **NOT** be left in the kit box.
- The completed kit and clothing bags should be kept together and stored in a secure area.
- The larger paper bags should be placed adjacent to, but not inside, the completed kit box.
- All required information should then be completed on the top of the kit box.
- The kit should be sealed with red or orange evidence tape at the indicated area.

Law enforcement should then be notified that evidence is ready for pick-up at the medical facility. To ensure the proper “chain of evidence,” all articles must be kept either in the possession of the evidence collector or in a locked location, until retrieved by law enforcement. Upon release of evidence to a law enforcement officer, the officer must sign, date, and time the evidence.

Special Storage and Transportation

All Sexual Assault Evidence Collection Kits must remain refrigerated until delivered to the Crime Laboratory Division.

All Urine Toxicology Samples must remain frozen until delivered to the Crime Laboratory Division.

EVIDENCE COLLECTION FROM AN ALLEGED PERPETRATOR

Time Limits and Warrants

There is no time limit to gather evidence from an alleged perpetrator who volunteers for forensic evidence collection.

In certain cases, law enforcement may request that forensic evidence be collected from an alleged perpetrator. The officer must first obtain a search warrant or consent of the alleged perpetrator and then share it with the evidence collector.

When a warrant is issued for collection of forensic evidence from an alleged perpetrator, the issuing judge sets applicable time limits.

Procedures

Procedures for an alleged perpetrator forensic examination are similar to procedures for the forensic examination of the patient. The Sexual Assault Evidence Collection Kit is to be used in either case, and the principles of evidence collection and handling are the same.

Law enforcement will remain with the alleged perpetrator during the examination to ensure the safety of the evidence collector.

The “Suspect Forensic Examination Form” can be found in Appendix J of this document. The following procedures apply specifically to collecting evidence from an alleged perpetrator:

- If an officer presents an alleged perpetrator with a search warrant, the search warrant will state exactly which samples are to be collected. The items explicitly stated on the search warrant are the only samples that can be obtained.
- If the alleged perpetrator consents to the collection of evidence, Steps 1 through 17 of the kit should be followed.
- In cases where the alleged perpetrator consents to the collection of evidence, the evidence collector should consult with law enforcement to determine which evidence is needed (i.e. head hair, pubic hair, blood, penile swabs, etc.).

If at all possible, the evidence collector who performed the patient’s examination should **NOT** be the same personnel who collect evidence from the alleged perpetrator. In other words, different personnel should perform the examination of the patient and the examination of the alleged perpetrator related to that case.

Documentation

General Physical Appearance:

Using the “Physical Condition Form” (included in the Sexual Assault Evidence Collection Kit and in Appendix H of this document), the following should be documented:

- disheveled appearance; any torn clothing; or stains or trauma from carpet, sand, grass, dirt, rocks, etc.
- any cuts, fingernail scratches, marks, bruises, or red marks that may indicate physical struggle or use of force.

In addition, any signs of injury or struggle should be photographed and provided to law enforcement.

Intoxication or Drug Use:

Suspicions of intoxication should always be documented.

If law enforcement or evidence collector have cause to believe the alleged perpetrator is intoxicated, a Crime Laboratory Division Collection Kit (blood, alcohol or urine kit) should be used and included in the Sexual Assault Forensic Evidence Collection Kit.

NOTE: samples for toxicology testing should only be collected upon consent of the alleged perpetrator, or upon order through a search warrant.

In cases of drug- and alcohol-facilitated sexual assault, the alleged perpetrator may state that the patient was equally intoxicated. Toxicology tests and witness interviews, however, can reveal differences between the alleged perpetrator's and the patient's levels of consumption, possibly forming the basis for prosecution as a Drug-Facilitated Sexual Assault.

Alleged Perpetrator's Clothing:

The condition of the alleged perpetrator's clothing may corroborate patient statements. As such, any possible evidence of struggle should be noted – tears; missing buttons; grass, dirt, or other stains – with particular attention to the elbows and knees.

During the examination, attending evidence collector may find drugs, drug paraphernalia, or drug packaging that is consistent with drugs believed to have been used to facilitate sexual assault. The evidence collector should immediately alert law enforcement so that the officer may collect the evidence.

Law enforcement should also collect any of the following items that may be found in the alleged perpetrator's clothing:

- condoms or lubricants.
- any evidence that may belong to the patient.
- weapons or any item that resembles a weapon.

Genital Examination:

Patient statements may be corroborated by the following:

- collection of trace evidence (i.e. hairs, fibers, twigs, or grass).
- collection of biological evidence (i.e. semen, blood, or saliva).
- documentation of distinguishing features of the genital area (i.e. venereal warts, tattoos, piercings or shaved pelvic area).
- documentation of any injuries (i.e. scratches, bruises, or bite marks).

Fingernail Scrapings and Clippings:

Fingernail scrapings and clippings can contain the patient's epithelial cells following digital penetration, even after the alleged perpetrator has bathed or washed his or her hands. As such, fingernail scrapings and clippings should always be collected from the alleged perpetrator.

Hand swabs should be performed whenever digital penetration is alleged; two swabs per hand is the recommended number to be used. Additional swabs should be taken around rings and jewelry.

Court Ordered Testing for Sexually Transmitted Infections:

In order to determine whether a defendant or alleged juvenile offender has a sexually transmitted infection, a court may order testing of any defendant charged with a sex offense (or any juvenile offender who is alleged to have committed certain crimes). The court may order this testing, however, only if the court receives a petition either from the patient or from the prosecuting attorney with a written request from the patient (N.D.C.C. § 23.07.7-01).

POST-EVIDENCE-COLLECTION PROCEDURES: EVIDENCE COLLECTOR AND LAW ENFORCEMENT

Special Storage Conditions

Paper Containers:

Clothing and other evidence specimens must be air dried and then packaged separately.

In addition, clothing must be sealed in paper containers in order to prevent the degradation of biological fluid stains and the loss of hair, fibers, or other trace evidence. **Absolutely NO specimens or evidence should be sealed in plastic.** When plastic containers are used, moisture remains sealed in the evidentiary items, permitting the growth of bacteria that can quickly destroy biological evidence. Unlike plastic, paper “breathes” and allows moisture to escape. Paper containers are included in each kit. It is also recommended larger paper containers are also kept on supply for larger clothing items.

Each paper container should be sealed with evidence tape – **NOT** with staples. Staples present a biohazard to lab personnel and do not provide a permanent seal.

Refrigeration:

The Sexual Assault Evidence Collection Kit must be refrigerated (not frozen) at all times after the evidence has been collected. Either the hospital or law enforcement must maintain this refrigeration until delivery to the Crime Laboratory Division.

Standard transportation regulations must be followed to prevent freezing during winter months or heating during summer months.

Freezing:

Urine specimens collected in drug-facilitated sexual assault must be frozen at all times, including transportation. The high acidic level of urine can cause the decomposition of drugs and chemical analogs if the sample is not frozen.

Chain of Custody

As soon as the seal on the kit is broken by the evidence collector physical custody must be maintained, the evidence collector cannot leave the kit unattended.

Law enforcement and the evidence collector must work cooperatively to ensure the appropriate transfer of medical forensic evidence. The Sexual Assault Evidence Collection Kit and any additional items, such as clothing or urine samples, must be maintained in the chain of custody.

From the moment of collection until the moment the kit is introduced into court as evidence, the custody of the kit and the specimens it contains must always be accounted for. This practice is absolutely crucial in order to maintain the legally necessary “chain of custody,” sometimes called “chain of evidence,” or “chain of possession.”

Unless the “chain of custody” can be established, evidence cannot be introduced in court.

All evidence must be properly handled, and information must be recorded appropriately. In order to maintain the integrity of the “chain of custody,” the following practices should be implemented:

- Evidence specimens should be packaged, sealed, and labeled, specifying the date, the time, the identity of the patient, the name of the attending evidence collector, and the area of the body from which the specimen was taken.
- The number of persons handling the evidentiary specimens should be minimized.
- Each person who does handle the specimens should initial, date, and time them.
- Note should be made about how and when samples are transferred from attending evidence collector to law enforcement. Law enforcement should initial, date, and time the external labels.
- Both the individual releasing evidence and the individual accepting evidence should be certain that all individual evidentiary items are properly sealed, signed, dated, and marked with the applicable time.
- The names of any persons involved in the examination, collection of evidence, or handling must be legible on the evidence specimen. In addition, enough contact information must be recorded so that these persons can be located in the event that their testimony is needed in court.

Because medical facilities cannot be expected to have adequate facilities for storage of evidence, it is crucial that law enforcement take custody of evidence as soon as possible.

Sources of Corroborating Evidence

Numerous forms of evidence can be crucial to corroborating a report of a sexual assault. Sometimes overlooked, these forms of evidence can include:

- Used tampons, menstrual products, or condoms, which may be found in the garbage.
- Washcloths or towels used by either the victim or the alleged perpetrator after the assault.
- Vomit residue around a toilet rim, residue which may be analyzed if a Drug-Facilitated Sexual Assault is alleged.
- Foreign objects or lubricants.
- Disheveled sheets, turned-over lamp, clump of hair, or broken fingernails, all of which could indicate non-consensual contact.
- Communications such as emails, phone messages, text messages, instant messages, letters or social media messages or posts (i.e. Twitter, Facebook or other social networking sites) between the victim and the alleged perpetrator, or involving other witnesses in the case.

Transportation of Evidence to the Crime Laboratory Division

Only law enforcement officials or duly authorized agents are allowed to transfer physical evidence from medical facilities or hospitals to the Crime Laboratory Division. The transfer of evidence must be performed within a reasonable time period – and must be recorded with the date and time of transfer, the name of the current custodian, and the name of the acquiring custodian of the evidence.

Maintaining Evidence

Sexual assault evidence collected from non-investigated cases should be kept by law enforcement for a minimum of seven years or until the victim turns 22, whichever occurs later.

The statute of limitations is suspended, however, if a “John/Jane Doe Warrant” is issued. This warrant is based upon a DNA profile developed using evidence taken from the scene of a sexual assault.

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SEXUAL ASSAULT FORENSIC EXAMINATION PROCEDURES

Chart Summary

<u>Joint Interview</u>	<u>Patient Consent</u>	<u>Toxicology Samples</u>	<u>Foreign Material and Clothing Collection</u>
Obtain patient history with SART Team: Law Enforcement, SANE and Advocate	<ul style="list-style-type: none"> • Perform EMTALA Screen including suicide assessment • Consent, Release & Authorization for Treatment • HIPAA 	Sign consent & collect urine for Drug Facilitated Assault— <i>If history indicates</i>	<ul style="list-style-type: none"> • Have patient disrobe on paper, maintain privacy • Photograph/collect and bag clothing • Collect foreign material
<u>General Debris Collection</u>	<u>General Physical Examination</u>	<u>Collect Swabs and Debris</u>	<u>External Genital Examination</u>
<ul style="list-style-type: none"> • Fingernail scraping/clippings • Any other miscellaneous debris • Package/seal/label 	<ul style="list-style-type: none"> • Strangulation examination • Wood's lamp examination • General inspection • Dried secretion collection • Photograph injury 	<ul style="list-style-type: none"> • Oral swabs and flossing (if indicated) • Prepare swabs • Use swab dryer and package • Pubic hair combings (if indicated) 	<ul style="list-style-type: none"> • Wood's lamp genital area • Conduct visual examination of external genital area, utilize the colposcope or digital camera • Assess the anus and swab- Use two swabs • Photograph injury with colposcope or digital camera
<u>Toluidine Blue Dye</u>	<u>Internal Genital Examination</u>	<u>Following the Examination</u>	<u>Reference Sample</u>
<ul style="list-style-type: none"> • Apply dye (per protocol) to external genital area • Photograph injury with colposcope or digital camera 	<ul style="list-style-type: none"> • Conduct internal genital examination, utilizing colposcope or digital camera • Photograph injury • Swab speculum; dry and package and label "speculum swabs" • Vaginal-use four swabs 	<ul style="list-style-type: none"> • Ensure clothing available for patient • Offer shower • Ask patient to get dressed 	<ul style="list-style-type: none"> • Collect known blood sample • Collect known saliva sample
<u>STI Evaluation and Treatment</u>	<u>Pregnancy Evaluation and Treatment</u>	<u>Follow-Up</u>	<u>Discharge Instructions</u>
Evaluate and treat prophylactically for sexually transmitted infections, Chlamydia and Gonorrhea	Evaluate the possibility of pregnancy; discuss options and provide treatment, after consent form is signed	Arrange for medical follow-up appointments	Provide discharge education: strangulation after care, genital and anal injury and review discharge instructions regarding STI testing with patient
<u>Colposcope Photographs</u>	<u>Digital Photographs</u>	<u>Chain of Custody</u>	
Save to disc and retain in SANE file	Save disc, provide one to Law Enforcement, retain other in SANE file	Give Sexual Assault Evidence Collection Kit to Law Enforcement-do not seal until law enforcement is present	<p><i>Developed 2004</i> <i>Updated 09/2008, 01/2010,</i> <i>06/2011, 06/2012, 09/2012</i> <i>T.Scheuer, MSN, SANE-A</i></p>

NORTH DAKOTA SEXUAL ASSAULT EVIDENCE COLLECTION KIT INSTRUCTIONS

(SEE PROTOCOL)

THIS KIT IS DESIGNED TO ASSIST EXAMINING MEDICAL PROFESSIONALS IN THE COLLECTION OF EVIDENTIARY SPECIMENS FOR ANALYSIS BY THE FORENSIC LABORATORY SERVING YOUR LOCAL LAW ENFORCEMENT AGENCY. THE HOSPITAL IS NOT REQUESTED OR ENCOURAGED TO ANALYZE ANY OF THE SPECIMENS/EVIDENCE COLLECTED IN THIS KIT. ANY SPECIMENS REQUIRED BY THE HOSPITAL ARE TO BE COLLECTED WITH HOSPITAL SUPPLIES.

STEP 1 HIPAA FORM/AUTHORIZATION FOR RELEASE FORM (APPENDIX C)

Fill out all information requested on form and have patient or parent/guardian sign and date where indicated.

STEP 2 INFORMED CONSENT FOR THE FORENSIC EXAMINATION (APPENDIX D)

Fill out all information requested on form and have patient sign where indicated.

STEP 3 URINE SAMPLE COLLECTION KIT

If date rape drugs are suspected, use a urine specimen collection kit supplied by the Crime Laboratory Division.

STEPS 4A & 4B

SEXUAL ASSAULT FORM FOR CRIME LABORATORY (2 PAGES)

Fill out all information requested on forms.

STEPS 5A - 5E & STEP 6

OUTER CLOTHING, UNDERWEAR, AND FOREIGN MATERIAL COLLECTION

- NOTE:
1. Wet or damp clothing should be air dried before packaging.
 2. If patient is not wearing clothing worn at the time of the alleged assault, collect only the items that are in direct contact with the patient's genital area.
 3. If patient has changed clothing after assault, inform officer in charge so that the clothing worn at the time of the alleged assault can be collected by the police.
 4. Do not cut through any existing holes, rips, or stains in patient's clothing.
 5. Do not shake out patient's clothing or microscopic evidence will be lost.
 6. If additional clothing bags are required, use only new paper (grocery-type) bags.

Unfold and place a clean bed sheet on floor. Remove paper sheet from Foreign Material bag, unfold, and place over bed sheet. Instruct patient to stand in center of sheet and carefully disrobe. Collect each item as removed and place in separate Outer Clothing bag. Collect patient's underwear and place in Underwear bag. Collect patient's bra and place in Bra bag. Refold paper sheet patient disrobed over in a manner to retain any foreign material present and return to Foreign Material bag. Seal bags with evidence tape and fill out all information requested on bag labels. DO NOT STAPLE BAGS.

STEP 7 CLOTHING DOCUMENTATION

Fill out all information requested on form.

STEP 8 ORAL SWABS AND FLOSSING (Collect only if oral assault occurred)

Using the two swabs, carefully swab the buccal area and gum line. Allow swabs to air dry and place in swab box, then check off "Oral" on swab box. Using the unwaxed dental floss provided in the small envelope, have patient floss his/her own teeth using a minimal amount of floss. Return floss to the small envelope. Return swab box and floss to Oral Swabs and Flossing envelope. Seal and fill out all information requested on envelope.

STEP 9 DRIED SECRETIONS

NOTE: If available, it is recommended that a Wood's (UV) lamp be used in the following procedure.

Remove folded paper sheet from Dried Secretions envelope. Unfold and place on flat surface. Collect any foreign debris such as dirt, leaves, fiber, hair, etc. and place in center of paper. Refold paper in manner to retain debris. Foreign debris such as dried semen, blood, saliva, etc. should be collected by lightly moistening the swabs provided with distilled water, then thoroughly swabbing the area with the swabs. Allow swabs to air dry and then return them to their original paper sleeve.

Return folded paper sheet and swabs to Dried Secretions envelope. Note location from which sample(s) was taken on anatomical drawings on envelope. Seal and fill out all information requested on envelope.

STEP 10 FINGERNAIL SCRAPINGS

NOTE: COLLECT FINGERNAIL CLIPPINGS ONLY IF FINGERNAIL(S) WERE BROKEN OFF DURING ASSAULT - USE STERILE SCISSORS. (NOT PROVIDED IN KIT)

Remove envelopes from Fingernail Scrapings envelope. Remove folded paper sheet and scraper from Left Hand envelope. Unfold paper sheet and place on flat surface. Hold patient's left hand over paper and using the plastic fingernail scraper provided, scrape under all five fingernails allowing any debris present to fall onto paper. Refold paper in manner to retain scraper and debris, then return to Left Hand envelope. Follow same procedure for Right Hand. Return both envelopes to Fingernail Scrapings envelope. Seal and fill out all information requested on envelope.

STEP 11 HEAD HAIR COMBINGS (To obtain hairs shed by assailant during the assault)

Remove paper towel and comb provided in Head Hair Combing envelope. Place towel under patient's head. Using comb provided, comb head hair in downward strokes so that any loose hairs and/or debris will fall onto paper towel. Refold towel in manner to retain comb and any evidence present. Return to Head Hair Combing envelope. Seal and fill out all information requested on envelope.

STEPS 12A - 12C

PHYSICAL CONDITION FORMS (Anatomical Drawings)

Using the appropriate anatomical drawing, indicate all signs of physical trauma – e.g., bruises, scratches, marks, discolorations (size and color), or bite marks – on any part of the patient's body.

STEP 13 PUBIC HAIR COMBINGS (To obtain pubic hairs shed by assailant during the assault)

Remove paper towel and comb provided in Pubic Hair Combing envelope. Place towel under patient's buttocks. Using comb provided, comb pubic hair in downward strokes so that any loose hairs and/or debris will fall onto paper towel. Refold towel in manner to retain comb and any evidence present. Return to Pubic Hair Combing envelope. Seal and fill out all information requested on envelope.

STEP 14 VAGINAL/PENILE SWABS AND SMEARS (Collect only if vaginal assault occurred)

NOTE: 1. Do not stain or chemically fix smears. Do not moisten swabs prior to sample collection.
2. If patient is male, moisten two of the four swabs provided with distilled water and swab shaft and glans. Allow swabs to air dry and then place in swab box and mark box accordingly. Do not prepare smears.

Remove all components from envelope. Using two swabs simultaneously, carefully swab the vaginal vault, then put used swabs aside to air dry.

Using the two additional swabs provided, repeat the swabbing procedure, then prepare two smears on the slides provided. Allow swabs (4) and smears (2) to air dry. Return smears to slide holder and place swabs in the swab boxes. Check off "DNA (Vaginal)" on the swab box containing the first two swabs collected and "Vaginal" on the other swab box. Return smears and swabs to Vaginal Swabs and Smears envelope. Seal and fill out all information requested on envelope.

STEP 15 RECTAL SWABS (Collect only if rectal assault occurred)

Using four swabs, carefully swab the rectal canal. Allow swabs to air dry and place two swabs in each swab box, then check off "Rectal" on swab boxes. Return swab boxes to Rectal Swabs envelope. Seal and fill out all information requested on envelope.

STEP 16 KNOWN SALIVA SAMPLE (Collect in all cases)

NOTE: The patient should not have anything to eat, drink or smoke for a minimum of 15 minutes prior to saliva sample collection.

Remove filter paper disk from Known Saliva Sample envelope. Do not touch inner circle. Place folded paper in patient's mouth and instruct patient to thoroughly saturate inner circle with saliva. Allow sample to air dry. Without touching inner circle, return disk to Known Saliva Sample envelope. Seal and fill out all information requested on envelope.

STEP 17 KNOWN BLOOD SAMPLE (For DNA testing)

Using the sterile, fixed-depth lancet provided, prick the patient's finger. While holding the patient's finger over one of the circles printed on the FTA Blood Collection Paper, milk the patient's finger allowing two drops of blood to fall on the card, within the circle. Repeat this procedure using the remaining circle. Allow card to air dry, then return card to Known Blood Sample envelope. Seal and fill out all information requested on envelope.

FINAL INSTRUCTIONS

- 1) Make sure all information requested on all forms, envelopes, and bag labels have been filled out completely.
- 2) Separate forms (Steps 1, 2, 4A, 4B, 7, 12A, 12B, and 12C).
- 3) Place white copies of Steps 1, 2, 4A, 4B, 7, 12A, 12B, and 12C in kit box. Give law enforcement yellow copies of Steps 1, 2, 4A, 4B, 7, 12A, 12B, and 12C. Retain pink copies of Steps 1, 2, 4A, 4B, 7, 12A, 12B, and 12C for SANE file. Give FME Reimbursement gold copy of Step 1 to the facility's billing department.
- 4) With the exception of sealed and labeled Outer Wear, Pants, Shirt, Underwear, Bra, and Foreign Material bags, return all other evidence collection envelopes to kit box.
- 5) If collected, send urine specimen collection kit to crime laboratory. Do not place in sexual assault kit box.

NOTE: Any specimens collected for hospital use should not be placed in kit but should be sent to the hospital laboratory for analysis.

- 6) Affix biohazard label to box top, then initial and affix red police evidence seals where indicated on box.
- 7) Fill out all information requested on kit box top under "For Hospital Personnel".
- 8) Hand sealed kit and sealed bags to investigating officer.

NOTE: If officer is not present at this time, place sealed kit and sealed bags in secure and refrigerated area and hold for pickup by investigating officer.

Appendix B

Blood and Urine Drug Screen Analytes:

Compound Name

3,4-MDA	3,4-MDEA	3,4-MDMA
6-O-Acetylmorphine	7-Aminoclonazepam	7-Aminoflunitrazepam
Acetaminophen	alpha-Hydroxyalprazolam	Alprazolam
Amitriptyline	Amobarbital	Amphetamine
Atropine	Benzoylcegonine	Brompheniramine
Bupropion	Butalbital	Carbamazepine
Carisoprodol	Chlordiazepoxide	Chlorpheniramine
Chlorpromazine	Citalopram/Escitalopram	Clomipramine
Clonazepam	Clozapine	Cocaethylene
Cocaine	Codeine	Cyclobenzaprine
Desalkylflurazepam	Desipramine	Dextromethorphan
Diazepam	Dihydrocodeine	Diltiazem
Diphenhydramine/Dimenhydrinate	Doxepin	Doxylamine
Duloxetine	Ecgonine Methyl Ester	EDDP
Ephedrine/Pseudoephedrine	Fentanyl	Flunitrazepam
Fluoxetine	Flurazepam	Gemfibrozil
Guaifenesin	Heroin	Hydrocodone
Hydromorphone	Hydroxy Bupropion	Ibuprofen
Imipramine	Ketamine	Lamotrigine
Lidocaine	Lorazepam	Maprotiline
Meperidine	Meprobamate	Methadone
Methamphetamine	Methaqualone	Methylphenidate
Metoprolol	Midazolam	Mirtazapine
Morphine	Naproxen	Nitrazepam
Norcocaine	Nordiazepam	Norfentanyl
Norketamine	Normeperidine	Norpropoxyphene
Nortriptyline	Norvenlafaxine	Olanzapine
Orphenadrine	Oxazepam	Oxycodone
Oxymorphone	Paroxetine	PCP (Phencyclidine)
Pentobarbital	Phenobarbital	Phentermine
Phenylpropanolamine (PPA)	Phenytoin	Prazepam
Promethazine	Propoxyphene	Propranolol
Protriptyline	Quetiapine	Risperidone
Salicylic Acid	Secobarbital	Sertraline
Temazepam	Thiopental	Topiramate
Tramadol	Trazodone	Triazolam
Trimipramine	Venlafaxine	Verapamil
Zaleplon	Zolpidem	Zopiclone

STEP 1 APPENDIX C HIPAA AUTHORIZATION FOR RELEASE - SEXUAL ASSAULT EXAMINATION KIT

SECTION ONE: "AUTHORIZATION FOR USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION"

- If Section Two is completed, the patient **MUST** sign this form. The patient has the right to receive a copy of the completed form.

This authorization shall be in force and effect for the statute of limitation or until the completion of all investigations and legal actions related to this matter, including the completion of any appeal or review or the expiration of the time for filing any such appeal or review.

Hospital/Clinic: _____

Patient Name: _____ Date of Birth: ____/____/____
Print Date Month Year

DESCRIPTION OF THE INFORMATION TO BE USED OR DISCLOSED:

(The patient must initial the following sentences to indicate understanding of the information which may be used or disclosed and of patient's rights.)

I, _____, authorize the hospital/clinic named and any member of its professional or administrative staff to **use and/or disclose the following** protected health information to: County State's Attorney, Law Enforcement Officials, the Attorney General's Office, the Bureau of Criminal Investigation, the State Crime Laboratory, the Federal Bureau of Investigation, Tribal Law Enforcement Officials investigating this sexual assault, and the domestic violence/sexual assault advocate:
Print Patient Name

_____ The results of tests for the presence of sperm and venereal disease, clinical observation, and physical evidence, including specimens and blood samples used for examination and laboratory analysis, including history, findings, x-rays, photographs, and diagnosis, and any health information related to the examination and treatment, including copies of any of these items or records, as well as clothing or other miscellaneous items collected by the hospital, emergency medical services personnel, or any other health care provider.

_____ The results of tests for the presence of drugs, legal or illicit, from the urine sample collected. Evidence obtained during the examination may not be used in any criminal charges against the patient according to N.D.C.C. §12.1-34-07.

_____ I understand that this protected health information may be used or disclosed for criminal investigation of a sexual assault, including any juvenile proceeding for the civil commitment of a sexual predator.

_____ I understand that I have the right to revoke this authorization, in writing, at any time by sending a written notification to _____ (hospital/clinic) at _____, ND 58_____. I understand that revocation is not effective to the extent that the hospital/clinic staff has relied upon the authorization for the use or disclosure of the protected health information.

_____ I understand that information disclosed under this authorization may be further disclosed by the recipient and may no longer be protected by federal or state law.

Signature of Patient or Personal Representative: _____ Date: _____

Relationship to Patient: _____

Examination or treatment will not be based upon whether you sign the authorization for requested use or disclosure.

SECTION TWO: "AUTHORIZATION FOR STORAGE OF THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT"

(To be completed by medical provider if patient does not want to cooperate with law enforcement but agrees to the examination.)

Hospital/Clinic: _____ Patient Medical Record No.: _____

Health Care Provider must initial **both** sentences:

_____ The patient has asked to keep the option of completing a forensic medical exam without agreeing to participate in the criminal justice system or cooperate with law enforcement but agrees to have the completed kit stored at a law enforcement agency.

_____ The patient understands that in order to participate in the criminal justice system or cooperate with law enforcement, she/he must contact the hospital/clinic, provide the above Patient Medical Record Number, and complete the Authorization for Use or Disclosure of Protected Health Information (Section One, above) within the applicable statute of limitation.

Medical Provider's Signature: _____ Date: _____

STEP 2 INFORMED CONSENT FOR THE FORENSIC EXAMINATION

Appendix D

Hospital/SANE Program: _____

Patient's Name (PRINT): _____

Date of Birth: _____

I, _____, freely consent to allow
(Print Name)

_____ attending medical personnel, her or his medical
(Print Name)

and nursing assistants, and associates to conduct an examination to collect evidence concerning a reported sexual assault. This procedure has been fully explained to me and I understand this examination will include the clinical observation for physical evidence of penetration of or injury to my person, or both, the photograph of visible injury, and the collection of other specimens and blood samples for laboratory analysis.

I fully understand the nature of the examination and the fact that medical information gathered by this means may be used as evidence if I sign a separate authorization for disclosure of specified protected health information.

Date _____ Signature _____

Relationship to the patient, if an individual other than the patient signs the release:

Patient's Parent Guardian Other (specify): _____

STEP 4A
Appendix E

SEXUAL ASSAULT FORM FOR CRIME LABORATORY

Patient's Name: _____

M / F DOB: _____ Age: _____ Race: _____

SANE / Medical Professional: _____

Date & Time of Reported Sexual Assault: Date: _____ 20 _____ Time: _____ am/pm

Date of Exam: _____ Time Exam Started: _____ Time Exam Ended: _____

Place of Reported Sexual Assault: City _____ County _____ State _____

of Perpetrators: _____ Perpetrator(s) Name (if known): _____

M / F Race (if known): _____

_____ Stranger _____ Brief Encounter (known less than 24 hours)

_____ Non-Stranger _____ Relative

Details: _____

Prior To Evidence Collection, Patient Has:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Urinated			Lubricant Used			Condom		
Defecated						Removed		
Genital Wash/Wipe			Foam Used					
Bath/Shower						Menstruating		
Douche			Diaphragm			Tampon		
Changed Clothes			Removed			Removed by patient		
Drank/Ate			Inserted			Inserted after assault		
Rinsed Mouth								
Brushed Teeth			Sponge			Sanitary Pad		
Vomited			Removed			Removed by patient		
			Inserted			Applied after assault		

STEP 4B

SEXUAL ASSAULT FORM FOR CRIME LABORATORY

Appendix E

Patient's Name: _____

SANE / Medical Professional: _____

Check if Patient Indicates Any of the Following Occurred:

- | | | |
|---------------------------------------|---------------------------|-----------------------|
| _____ Physical Blows by Hands or Feet | _____ Physical Restraints | _____ Bites |
| _____ Grabbing | _____ Fondling | _____ Strangled |
| _____ Hit with Weapon | _____ Licking | _____ Use of Ligature |
| _____ Holding | _____ Kissing | _____ Burns |

Describe: _____

Contact Described By Patient:

<u>Type of Contact</u>	<u>Yes</u>	<u>No</u>	<u>Attempted</u>	<u>Unsure</u>
Penetration of Vagina				
Penis				
Finger				
Foreign Object (Describe)				
Penetration of Rectum				
Penis				
Finger				
Foreign Object (Describe)				
Oral Copulation				
Perpetrator to Patient				
Patient to Perpetrator				
Masturbation				
Perpetrator to Patient				
Patient to Perpetrator				
Perpetrator to Self				
Ejaculation				
Location				
Condom Used by Perpetrator				
Lubricant Used by Perpetrator				

STEP 7
Appendix G

CLOTHING DOCUMENTATION

Patient's Name: _____

Patient's Description of Clothing Worn During the Assault: (check all that apply)

_____ Presented at hospital wearing clothing worn during the assault.
Initial

_____ Presented at hospital wearing clothing put on immediately after the assault.
Initial

_____ Patient provides location of clothing worn at the time of the assault and/or additional
Initial evidence and law enforcement is notified at _____ hours.

_____ Clothing collected by law enforcement.
Initial

Describe clothing (with minimal handling) carefully noting condition (clean, dirty, rips, tears, stretched out elastic, missing buttons) and visible signs of foreign material (grass, fiber, hair, twigs, soil, splinters, glass, blood, dry or moist secretions).

Procedure for wet clothing: Items must be dry to preserve evidence. If clothing is wet, lay on a sheet of clean, unused, white paper and cover with another sheet of white paper. Gently fold each article of clothing and place in a paper bag, then label and seal the bag. Give to the Law Enforcement Officer.

Advise the Officer the clothing is wet (Note: Laboratory cannot accept wet evidence).

Bra: _____

Shirt: _____

Undershirt: _____

Sweater: _____

Jacket: _____

Pants: _____

Underwear: _____

Socks (state one or two socks present): _____

Shoes (state one or two shoes present): _____

Original (White) - Evidence Box

Yellow - Law Enforcement

Pink - SANE File

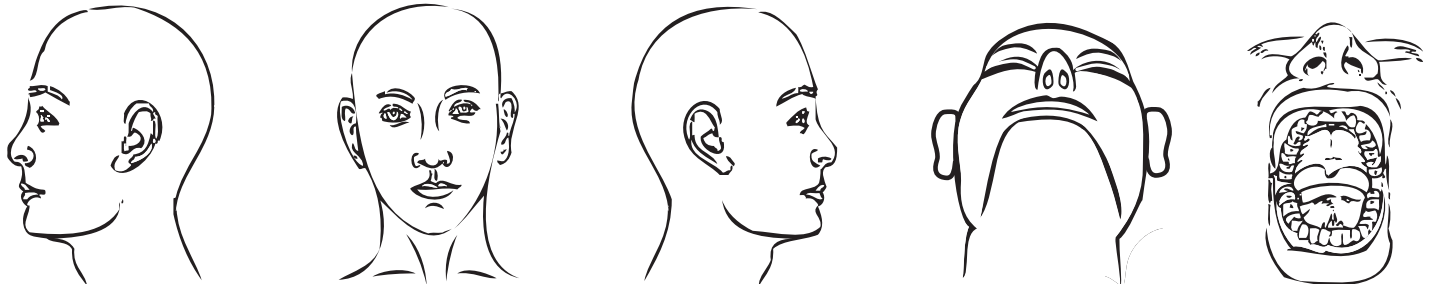
Documentation for Strangulation

Patient's Name: _____

Signs: *observations made by others (law enforcement, medical personnel)*

<u>Face/Head</u>		<u>Petechiae (pinpoint red spots)</u>	
<input type="checkbox"/> Red or flushed	<input type="checkbox"/> Bloody nose	<input type="checkbox"/> On cheeks/chin/forehead	<input type="checkbox"/> To R and/or L eyelid
<input type="checkbox"/> Bruising	<input type="checkbox"/> Broken nose	<input type="checkbox"/> Bloody/red eyeball (s)	<input type="checkbox"/> To R and/or L eyeball
<input type="checkbox"/> Scratches	<input type="checkbox"/> Swollen tongue or lips	<input type="checkbox"/> Under the tongue	<input type="checkbox"/> On the scalp
	<input type="checkbox"/> Bleeding from ear canal	<input type="checkbox"/> In the ear canal or external ear	
	<input type="checkbox"/> Cuts/abrasions in mouth	<input type="checkbox"/> Around the nose	

<u>Head</u>	<u>Under Chin</u>	<u>Neck</u>	<u>Shoulders</u>	<u>Chest</u>
<input type="checkbox"/> Hair pulled	<input type="checkbox"/> Redness	<input type="checkbox"/> Redness	<input type="checkbox"/> Redness	<input type="checkbox"/> Redness
<input type="checkbox"/> Bump(s)	<input type="checkbox"/> Scratches	<input type="checkbox"/> Scratches	<input type="checkbox"/> Scratches	<input type="checkbox"/> Scratches
<input type="checkbox"/> Concussion	<input type="checkbox"/> Bruises	<input type="checkbox"/> Bruises	<input type="checkbox"/> Bruises	<input type="checkbox"/> Bruises
<input type="checkbox"/> Skull fracture	<input type="checkbox"/> Abrasions	<input type="checkbox"/> Abrasions	<input type="checkbox"/> Abrasions	<input type="checkbox"/> Abrasions
		<input type="checkbox"/> Swelling		
		<input type="checkbox"/> Ligature marks		
		<input type="checkbox"/> Fingernail impressions		



Symptoms: *conditions noted by the victim*

<u>Breathing Changes</u>	<u>Swallowing Changes</u>	<u>Voice Changes/Other</u>
<input type="checkbox"/> Difficulty breathing	<input type="checkbox"/> Trouble swallowing	<input type="checkbox"/> Raspy voice
<input type="checkbox"/> Unable to breathe	<input type="checkbox"/> Painful to swallow	<input type="checkbox"/> Hoarse voice
<input type="checkbox"/> Hyperventilation	<input type="checkbox"/> Nausea/Vomiting	<input type="checkbox"/> Unable to speak
	<input type="checkbox"/> Neck Pain	<input type="checkbox"/> Coughing
		<input type="checkbox"/> Dizzy
		<input type="checkbox"/> Headache
		<input type="checkbox"/> Fainting/LOC
		<input type="checkbox"/> Amnesia

Method/Manner of Strangulation:

How did strangulation occur:

- One hand — R or L
- Two hands
- Forearm — R or L
- Knee or foot
- Ligature — how? _____
- Multiple attempts
- Multiple methods
- How long? _____
- Where did it occur? _____

Details of strangulation:

- Is the suspect R or L handed
- Was the victim shaken/straddled/held against wall
- Did victim's head hit against floor/wall/ground
- How hard was the suspect's grip? _____
- Victim also smothered
- Was the victim wearing jewelry Y/N
- Clothing torn Y/N

Victim:

- Urination or defecation
- How/Why did strangulation stop?

- How long did strangulation last?

Suspect:

- Facial expressions? _____
- Demeanor? _____
- What did the suspect say? _____

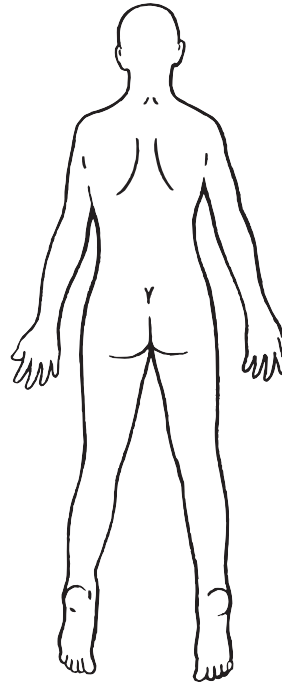
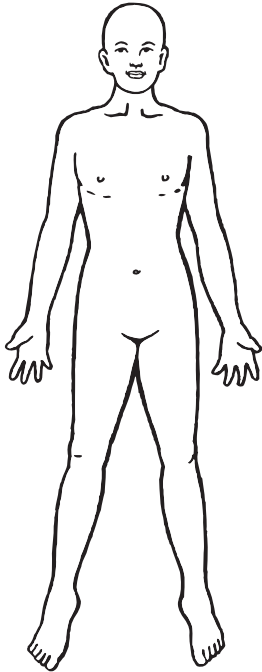
STEP 12B

PHYSICAL CONDITION FORM

Appendix H

Patient's Name: _____

Using appropriate anatomical drawings, mark and describe all bruises, scratches, lacerations, bite marks, etc.



Photographs Taken? Yes No

General Physical Examination

General Appearance: _____

Emotional Status: _____

Body Surface (locate and describe injury, document injuries on body diagrams):

Mouth/Face: _____

Head/Neck: _____

Back/Buttocks: _____

Chest/Breasts: _____

Abdomen: _____

Upper Extremities: _____

Lower Extremities: _____

OTHER: _____

STEP 12C

PHYSICAL CONDITION FORM

Appendix H

Patient's Name: _____

Pelvic Examination (note all signs of trauma, use non-lubricated speculum when possible)

Posterior Fourchette: _____

Fossa Navicularis: _____

Clitoral Hood: _____

Clitoris: _____

Labia Majora: _____

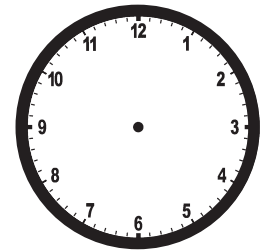
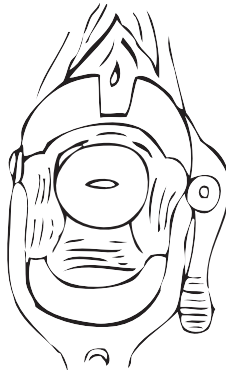
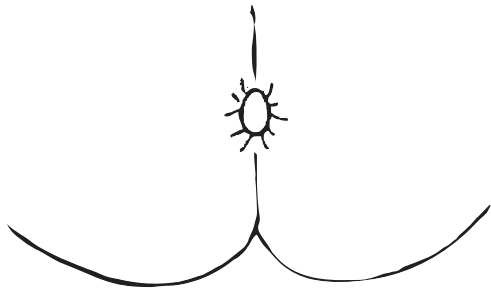
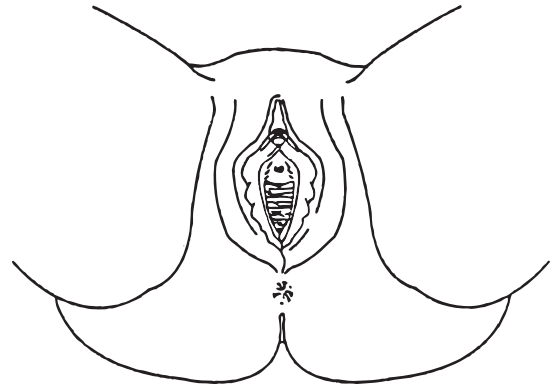
Labia Minora: _____

Hymen: _____

Vaginal Walls: _____

Cervix: _____

OTHER: _____



External Genitalia Examination (note all signs of trauma, i.e. bruises, petechiae, discharges, sphincter tone; also note any traces of lubricant or rectal soiling):

Penis: _____

Scrotum: _____

Meatus: _____

Glans: _____

Testicles: _____

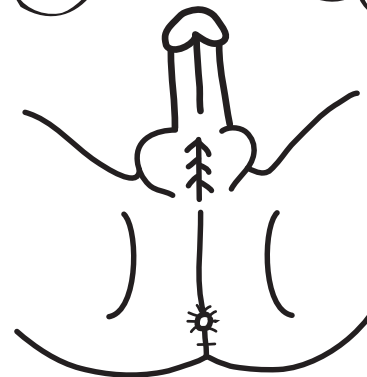
OTHER: _____

Perineum: _____

Rectum: _____

Anus: _____

OTHER: _____



Examiner's Signature

Date

(EXAMPLE)

Appendix I

Sexual Assault Discharge Planning Form

Patient Name: _____ **Date of Examination:** _____
Hospital/SANE Program: _____
Examining Nurse Practitioner/Physician: _____
Hospital/SANE Program Phone: _____

A number of specimens were collected from you to provide evidence in court should your attacker be caught and you decide to prosecute. Additional tests were conducted as follows:

Pregnancy test to determine pre-existing pregnancy only Yes No

You were given an antibiotic to prevent Gonorrhea and Chlamydia.

Name of Medication: _____ Dosage: _____

Name of Medication: _____ Dosage: _____

Name of Medication: _____ Dosage: _____

You were not given treatment to prevent gonorrhea or Chlamydia because:

However, recommendations for follow-up following this treatment are as follows:

3-4 Week Recommendations:

- Screening for Trichomoniasis, Bacterial Vaginosis, Herpes, HPV, Gonorrhea, and Chlamydia
- Discuss HIV/AIDS testing and/or follow-up from previous testing
- Evaluation of injuries as appropriate
- Pregnancy testing follow-up

6-Week Recommendations:

- Inspection for HPV and genital warts
- Screening for Syphilis (6-8 weeks)

3-Month Recommendations:

- Hepatitis B & C screening as indicated
- Inspection for HPV and genital warts

- Continue HIV screening

6-Month Recommendations:

- Hepatitis B & C screening as indicated
- Inspection for HPV and genital warts & HIV Screening

I understand my menstrual period should start within 3 weeks and if it doesn't start that I should see a physician. Pt Initial _____

I understand:

- The swabs that were collected were for forensic evidence *only*
- A Pap Smear *WAS NOT* completed
- *No Testing* for Sexually Transmitted Infections was completed

Pt initial _____

You need to return for testing and possible treatment starting the week of:

If you wish counseling, referrals and/or follow-up testing and treatment for STI from an agency other than this hospital, call one of the agencies listed below for assistance:

- An appointment was made for you at this hospital for follow-up medical treatment
- No appointment was made for follow-up treatment
- An appointment was made for you at this hospital for follow-up counseling
 - I have received this Patient Discharge Planning Form

 (Patient/Parent/Guardian Signature)

- I do not wish to receive this Patient Discharge Planning Form

 (Patient/Parent/Guardian Signature)

Appendix J

Law Enforcement's Suspect Forensic Examination Form
(to be completed by investigating officer)

Today's Date: _____
Name of Facility: _____
Address of Facility: _____
Facility's Phone Number: _____
Technician's Name: _____

Suspect's Name

Suspect's Address

_____ Male Female
Suspect's Phone Number

REQUEST FOR FORENSIC EVIDENCE COLLECTION

- The search warrant indicates collection of the following or
- Suspect volunteered the following:
 - Finger Nail Scrapings Buccal Swabs Penile Swabs Urine
 - Blood Clothing Other (specify): _____

Communicable Diseases of Risk:

- Hepatitis TB Herpes Syphilis HIV
- Gonorrhea Chlamydia Other (specify): _____

I, _____ consent to a physical examination and Forensic Evidence Collection conducted by the above named individual on _____
Today's Date

X _____
Suspect's Signature **Date**

X _____
Witness's Signature **Date**

Appendix K

North Dakota Resources/Support Services Information

Sexual Assault Crisis Programs in North Dakota

Agency	Location	Business Line/Crisis Line
Abused Adult Resource Center	Bismarck	222-8370 & 1-866-341-7009
Family Crisis Center	Bottineau	228-2028 & 1-800-398-1098
Safe Alternatives for Abused Families	Devils Lake	662-7378
Domestic Violence & Rape Crisis Center	Dickinson	225-4506
Kedish House	Ellendale	349-4729 & 349-5118
Rape & Abuse Crisis Center	Fargo	293-7273
Coalition Against Domestic Violence	Ft. Berthold	627-4171 & 627-3617
Domestic Violence and Abuse Center	Grafton	352-4242 & 352-3059
Community Violence Intervention Center	Grand Forks	746-0405 & 1-866-746-8900
Safe Shelter	Jamestown	251-2300 & 1-888-353-7233
McLean Family Resource Center	Washburn	462-8643 & 462-8643
Women's Action & Resource Center	Beulah	873-2274 & 873-2274
Domestic Violence Crisis Center	Minot	852-2258 & 857-2200
Abuse Resource Network	Lisbon	683-5061 & 683-5061
Spirit Lake Victim Assistance	Ft. Totten	766-1816 & 766-1816
Hearts of Hope	Belcourt	477-0002
Domestic Violence Program	Stanley	628-3233 & 628-3233
Abused Persons Outreach Center	Valley City	845-0078 & 845-0072
Three Rivers Crisis Center	Wahpeton	642-2115
Family Crisis Shelter	Williston	572-0757 & 572-9111

Please note: The area code for all crisis programs in North Dakota is 701.

State and National Resources

CAWS North Dakota	(701) 255-6240 1-888-255-6240
Crime Victims' Compensation	1-800-472-2286
ND Attorney General's Office	(701) 328-2210
National Sexual Assault Hotline (RAINN)	1-800-656-HOPE
National Sexual Violence Resource Center	1-877-739-3895

Child Advocacy Centers in North Dakota

Dakota Children's Advocacy Center	Bismarck and Dickinson	(701) 323-5626
Red River Children's Advocacy Center	Fargo and Grand Forks	(701) 234-4580
Northern Plains Children's Advocacy Center	Minot	(701) 852-0836

SANE Programs in North Dakota

Central Dakota Forensic Nurse Examiners	Bismarck	701-226-9804
St. Francis-ER	Breckenridge	218-643-3000
St. Joseph's Hospital ER	Dickinson	701-456-4000
Essentia Health- ER	Fargo	701-364-8000
Sanford Health- ER	Fargo	701-234-2000 or 1-800-437-4010
Altru Health Systems-ER	Grand Forks	701-780-5000
Sakakawea Medical Center	Hazen	701-748-2225
Central Valley Health District	Jamestown	701-252-8130 or 1-800-449-6636
Lisbon Area Health Services-ER	Lisbon	701 683-6400
Trinity Health-ER	Minot	701-857-5000 or 1-800-862-0005
Indian Health Services	Turtle Mountain Reservation	701-477-6111
Mercy Hospital-ER	Valley City	701-845-6400 or 1-800-371-9177
Mercy Medical Center	Williston	701-774-7400 or 1-800-544-3579

Child Protective Services in North Dakota (by county)

Adams	576-2967	Barnes	845-8521
Benson	473-5302	Billings	872-4121
Bottineau	228-3613	Bowman	523-3285
Burke	377-2313	Burleigh	222-6622
Cass	241-5761	Cavalier	256-2175
Dickey	349-3271	Divide	965-6521
Dunn	764-5385	Eddy	947-5314
Emmons	254-4502	Foster	652-2221
Golden Valley	872-4121	Grand Forks	787-8535
Grant	622-3706	Griggs	797-2127
Hettinger	824-3276	Kidder	475-2551
La Moure	883-5301	Logan	754-2283
McHenry	537-5944	McIntosh	288-3343
McKenzie	444-3661	McLean	462-3581
Mercer	745-3384	Morton	667-3395
Mountrail	628-2925	Nelson	247-2945
Oliver	794-3212	Pembina	265-8441
Pierce	776-5818	Ramsey	662-7050
Ransom	683-6133	Renville	756-6374
Richland	642-7751	Rolette	477-3141
Sargent	724-6241	Sheridan	363-2281
Sioux	854-3821	Slope	523-3285
Stark	456-7675	Steele	524-2584
Stutsman	252-7172	Towner	968-4355
Traill	636-5220	Walsh	352-5111
Ward	852-3552	Wells	547-3694
Williams	774-6300		

Please note: The area code for all Child Protective Service programs in North Dakota is 701.



The North Dakota Statewide Automated Victim Information Notification (ND SAVIN) system is an innovative service providing crime victims and other concerned citizens free, prompt and confidential notification and information regarding important offender status information, such as release of an inmate, an upcoming scheduled court event, or the expiration of a protection order. The system can be accessed 24 hours a day by visiting www.vinelink.com or calling the toll free number 1-866-ND1-VINE and dialing 1-1-0 to speak to a live operator. Individuals can also choose to register with the system to receive important updates on status changes. Those interested in registering with the system can choose to register for phone, text message or email notifications in English or Spanish.

ND SAVIN is an initiative of the Criminal Justice Information Sharing (CJIS) program. In order to provide victims this service, ND SAVIN partners with the courts, county jails, the Department of Corrections and Rehabilitation, law enforcement, the Office of the Attorney General, the CJIS Portal and victim assistance providers across the state. User agencies are provided with VINEWatch and VINEProtect, as applicable, which are web-based tools used to register victims, obtain statistics and audit reports.

THE ND SAVIN SYSTEM INCLUDES THE FOLLOWING SERVICES:

- **VINE Incarceration Victim Notification Service, which includes the DOCR Facilities, DOCR Probation & Parole and all County Jails;**
- **VINE Criminal Court Victim Notification Service;**
- **VINE Protection/Restraining Order Petitioner Notification Service**
- **Statewide court system; and**
- **VINE Booking Data Feed to CJIS Portal for Law Enforcement Notification**

VICTIM INFORMATION. NOTIFICATION. EMPOWERMENT.



NORTH DAKOTA
Department of Corrections
& Rehabilitation

Crime Victims Compensation
Lori Steele, Administrator • (701) 328-6195 • 1-800-445-2322 (in-state)
PO Box 5521 • 3100 Railroad Avenue • Bismarck, ND 58506-5521
Fax (701) 328-6186 • TDD 1-800-633-6888 • TTY Voice 1-800-366-6889

Jack Dalrymple, Governor
Leann K. Bertsch, Director

June 8, 2014

MEDICAL PROVIDER
NAME & ADDRESS

Dear Medical Provider:

As a result of limited funding for the Crime Victims Compensation Program, we have approved payment at the rate of 80% of your billed charges or 80% of the balances after insurances have made payment.

This program, by federal and state law, is a last resort payer and other resources such as insurances, Medicaid, IHS or Medicare must be explored first. We ask that you accept this check as payment in full and not bill the victim for the balance.

Thank you for your consideration.

Sincerely,

Lori Steele
Administrator
Crime Victims Compensation

***** PLEASE RETURN ACKNOWLEDGEMENT *****

_____ We wish to consider your request.

_____ We choose not to consider your request and will bill the victim for the balance.

Signature: _____

Medical Provider: _____

Address: _____

Appendix N

North Dakota Century Code Statutory Law Related to Sexual Assault

Note at the time this document was completed all statute definitions, references and citations were current as of August 1, 2015 and they (either/both) may be affected by subsequent legislative changes.

- | | |
|------------------------|--|
| 1. Chapter 12.1-17-06 | Criminal Coercion |
| 2. Chapter 12.1-17-08 | Consent as a Defense |
| 3. Chapter 12.1-20 | Sex Offenses |
| 4. Chapter 12.1-27.2 | Sexual Performance by Children |
| 5. Chapter 12.1-31 | Miscellaneous Offenses |
| 6. Chapter 12.1-32 | Penalties and Sentencing |
| 7. Chapter 12.1-32-09 | Dangerous Special Offenders-Habitual Offenders-Extended Sentence |
| 8. Chapter 12.1-32-15 | Offenders against Children and Sexual Offenders-Sexually Violent Predator-Registration Requirement-Penalty |
| 9. Chapter 12.1-34 | Fair Treatment of Victims and Witnesses |
| 10. Chapter 12.1-38 | Assumption of Risk in Crime |
| 11. Chapter 14-10 | Minors |
| 12. Chapter 23-07 | Reportable Diseases |
| 13. Chapter 23-07.7 | Court-Ordered Testing for Sexually Transmitted Diseases |
| 14. Chapter 23-16-16 | Treatment of Victims of Sexual Assault |
| 15. Chapter 28-01-25.1 | Limitation on Actions Alleging Childhood Sexual Abuse |
| 16. Chapter 29-04 | Limitations (of prosecution) |
| 17. Chapter 31-13 | DNA Analysis |
| 18. Chapter 43-12.1 | Nurse Practices Act |
| 19. Chapter 43-17 | Occupations and Professions |
| 20. Chapter 43-17-41 | Duty of Physicians and Others to Report Injury-Penalty |
| 21. Chapter 50-25.1 | Child Abuse and Neglect |
| 22. Chapter 50-25.1-03 | Persons Required and Permitted to Report |
| 23. Chapter 50-25.2 | Vulnerable Adult Protection Services |
| 24. Chapter 54-23.4 | Crime Victims' Compensation |

For more information:

<http://www.legis.nd.gov/information/statutes/cent-code.html>