

STATE OF NEVADA

VIOLENCE AGAINST WOMEN FORENSIC COMPLIANCE

**BEST PRACTICES GUIDELINES FOR
WORKING WITH VICTIMS OF
SEXUAL ASSAULT**



NEVADA OFFICE OF THE ATTORNEY GENERAL

In partnership with the

NEVADA COALITION AGAINST SEXUAL VIOLENCE



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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As Nevada's Attorney General, I am pleased to be working with the Nevada Coalition Against Sexual Violence and local communities in their efforts to provide the best possible services to victims of domestic and sexual violence. Whether or not you work in this field, you only need to read a newspaper or turn on the television to see that sexual violence affects every part of society. Rape and other forms of sexual violence occur in Nevada's rural and urban communities, on college campuses, on tribal land, and in our homes. It touches people of every age, race, class, gender and sexual orientation. It is critical that we all work together to let victims know the system will support them when they take the courageous step to report the crimes against them.

Many perpetrators of sexual violence have multiple victims, so their crimes are not just extremely personal assaults against individual victims, but are a continuing scourge for Nevada's communities. Leaders at all levels in the public and private sectors and each community must take an active role in defining their response to sexual assault. Communities must educate themselves about the motives and myths behind sexual violence, the prevalence of rape in our communities, the need for services and support to victims, and the necessary and effective criminal justice response to sexual assault.

Nevada's Best Practices Guidelines for Working with Victims of Sexual Violence is designed to provide a model response to victims. It provides examples and tools for empowering victims and their communities with choices to help strengthen the ultimate investigation and prosecution of sexual assault. This consistency in community response will also help in cases where a sexual assault incident crosses jurisdictional borders. As local communities adapt these guidelines to improve their response to sexual violence, the State of Nevada will become proficient in providing consistent, victim-centered responses to sexual assault crimes.

Please join me in adopting and endorsing these guidelines as our standard of practice throughout Nevada to hold perpetrators of sexual assault and rape accountable and to empower victims to seek justice and healing from this most personal of crimes.

Sincerely,

/s/
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TABLE OF CONTENTS

INTRODUCTION	1
◆ Purpose of these Guidelines	
◆ Violence Against Women Act of 2005	
COMMUNICATION WITH THE VICTIM	4
◆ Working With the Adult Victim	
○ What Information Should be Provided to the Victim	
○ Notification of Victim Rights and Reporting Options	
◆ Interviewing the Child Victim	
◆ Benefits Of Advocacy – True Victim-Centered Approach	
◆ Filing Police Report	
◆ Delayed Reporting	
◆ Written and Oral Communications	
◆ Mandated Reporting for Child Victims	
FORENSIC MEDICAL EXAM:	12
◆ Dual Purposes for Forensic Exam	
◆ Timing of the Forensic Exam	
◆ Who is Qualified to Perform the Exam?	
◆ Who Should be Present During the Exam?	
STANDARD EVIDENCE COLLECTION	15
◆ Standard Evidence Procedure	
◆ Minimum Forensic Evidence Kit Standards	
◆ What Should Be Included In Standardized Collection	
◆ Pregnancy and Sexually Transmitted Infection	
◆ Transferring Patients from One Facility to Another	
◆ Recommended Cost of Evidence Collection	
TRANSPORTATION & STORAGE OF EVIDENCE	18
◆ Transportation of Evidence	
◆ Evidence Storage	
TRACKING EVIDENCE – CHAIN OF CUSTODY ISSUES	19
◆ Chain of Custody	
◆ Transfer of Evidence to Law Enforcement	
PAYMENT FOR FORENSIC EXAMINATION AND EMERGENCY MEDICAL CARE	21
◆ Statutory Authority	
◆ Follow-up Care	
VICTIM ADVOCATES	23

◆ Advocate Roles and Responsibilities	
HOSPITAL STAFF	25
◆ Roles and Responsibilities	
◆ Recommended Training	
FORENSIC NURSE EXAMINERS AND PHYSICIANS	27
◆ Roles and Responsibilities	
◆ Considerations for Health Care Professionals	
LAW ENFORCEMENT	30
◆ Roles and Responsibilities	
◆ Additional Law Enforcement Responsibilities	
◆ Communication With Victims	
PROSECUTION	32
◆ Early and Consistent Contact with Victims	
◆ Working with Victim Advocates	
WHEN CHARGES ARE FILED	33
◆ General Rights of Victims of Crime in Nevada	
◆ The Right to Be Heard at Sentencing	
◆ Restitution	
◆ Other Compensation	
◆ Other Rights	
RESOURCES	35
APPENDICES	36
◆ Informed Consent Regarding Items Collected During Forensic Exam for Non-Reported Sexual Assault Cases	
◆ Notification of Victim’s Rights and Reporting Options	
◆ Notification to Law Enforcement of Forensic Exam – Delayed Reporting Option	
◆ Request for Non-Law Enforcement Intervention	
◆ Certification of Forensic Examination in Lieu of Police Report	
◆ Nevada Sexual Assault Forensic Examination Locations	

VIOLENCE AGAINST WOMEN FORENSIC COMPLIANCE BEST PRACTICES GUIDELINES FOR WORKING WITH VICTIMS OF SEXUAL ASSAULT

INTRODUCTION

The Nevada Forensic Compliance Best Practices Guidelines have an overriding commitment to victim-centered, multi-disciplinary approaches to satisfying the Violence Against Women Act (VAWA). Strategies included in this document demonstrate solutions that promote and prioritize the needs and well-being of the victim while ensuring the four core disciplines – law enforcement, prosecution, health care and victim advocacy – are partners in the development, implementation, and delivery of services to meet the compliance mandates of the Violence Against Women Act. Additionally, regardless of local jurisdictions' limitations, a consistent, uniform response providing an established standard of care for victims of sexual assault is strongly encouraged.

The Office on Violence Against Women defines sexual assault as “any type of sexual contact or behavior that occurs without the explicit consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape.”¹

According to the Nevada Revised Statutes, “A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault.” NRS 200.366.

Sexual abuse of a child includes multiple definitions in Nevada Statute: NRS 432B.100 defines sexual abuse of a child as including those acts constituting: (1) incest under [NRS 201.180](#); (2) lewdness with a child under [NRS 201.230](#); (3) sado-masochistic abuse under [NRS 201.262](#); (4) Sexual assault under [NRS 200.366](#); (5) statutory sexual seduction under [NRS 200.368](#); (6) open or gross lewdness under [NRS 201.210](#); and (7) mutilation of the genitalia of a female child, aiding, abetting, encouraging or participating in the mutilation of the genitalia of a female child, or removal of a female child from this State for the purpose of mutilating the genitalia of the child under [NRS 200.5083](#).

Purpose of these Guidelines:

It has long been recognized that the most crucial evidence in sexual assault cases is that which is collected from the victims themselves. Unfortunately, in our efforts to move quickly and thoroughly, we sometimes overlook the fact that the victims are highly traumatized and may need additional time to think through all the decisions critical to the ultimate arrest and prosecution of the perpetrator. The impetus behind the forensic compliance criteria of the Violence Against Women Act is that adult victims who are given an opportunity to have evidence collected but delay the formal police report (sometimes by only a day or two) actually provide more accurate and reliable information of the crime.

In cases of child sexual assault, Nevada's mandatory reporting laws take precedence over the language in the Violence Against Women Act. NRS 202.882 outlines the duty to report violent or sexual

¹ U.S. Department of Justice, Office on Violence Against Women, web publication <http://www.ovw.usdoj.gov/ovw-fs.htm>

offenses against children 12 years of age or younger. Pursuant to NRS 202.282, a report must be made to the appropriate law enforcement agency as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that a sexual offense has been committed against the child.

This document will offer guidance and instruction providing for a victim-centered approach to evidence collection and documenting crimes of sexual assault. Sexual assault remains the most under-reported crime in our nation² with only 36% of adult rapes being reported to police.³ Acute emotional trauma experienced by victims of sexual assault may inhibit their decision-making capacities. Given time, victims can often recall greater details of the incidents.

A forensic medical examination has been defined by the Office on Violence Against Women as an “...examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.”⁴ Forensic medical exams provide critical information to law enforcement, and ultimately to prosecutors, if the case moves through the criminal justice system. In Nevada, submitting to this evidence-collection procedure is sufficient to satisfy the requirements under the Victim of Crime Compensation Program making victims eligible to apply for crime victims’ compensation.

Working with child victims of sexual abuse creates unique challenges for all professionals involved from law enforcement and medical personnel to school counselors, social workers, and advocates. Any professional interviewing child victims should have specialized training for conducting interviews that will withstand challenges in a court of law. Additionally, the timetable for collecting forensic evidence is significantly different in child victims than in adults. Finally, mandatory reporting laws for crimes against children vary significantly from those outlined in the Violence Against Women Act for adult victims.

Victim advocates are a critical component to a victim-centered response. Advocates play an important role in helping victims and their families understand their rights and the consequences of their choices throughout the process. Therefore, while the recommendations in these guidelines may require a change from current practice, such changes are a necessary and important step to ensuring victims are empowered with choices and can better assist in the eventual prosecution of the crime perpetrated against them.

From a criminal justice perspective, it is imperative that the integrity of the evidence collected be maintained. These Guidelines recommend procedures for interacting with the victims, the forensic nurse examiner, and for documenting the chain of custody of evidence when responding to victims who submit to a forensic medical examination but defer reporting the assault to law enforcement to a later date.

While delayed reporting may certainly have an impact on the prosecutor’s decision to prosecute the case, first responders should refrain from compelling victims to file a formal police report. Instead, victims should be provided all options for making an informed decision. This document will discuss the

² U.S. Department of Justice, Centers for Disease Control (CDC) Injury Center. Sexual violence: Fact sheet. Data is cited from the National Violence Against Women Survey and National Crime Victimization Survey, 2007.

³ C.M. Rennison. 2002, August. Rape and sexual assault: Reporting to police and medical attention, 1992–2000. *Bureau of Justice Statistics, Selected Findings*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs. NCJ 194530.

⁴ U.S. Department of Justice, Office on Violence Against Women. Frequently asked questions on STOP formula grants: 22. Updated November 21, 2007.

pros and cons of filing police reports and provides information for victims regarding the consequences of these decisions.

Jurisdictions should look to adopt policies for tracking evidence of an eventual delayed report. This information will be important later if victims decide to provide identifying information and participate in the investigative process.

Violence Against Women Act of 2005

**Violence Against Women and Department of Justice
Reauthorization Act of 2005**

(d) Rule of Construction. – Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.

42 U.S.C.A. § 3796gg-4(d)

The Violence Against Women Act (VAWA) authorizes formula grant funding to states to address domestic, sexual, and dating violence and stalking. The State of Nevada has been a recipient of VAWA formula grant funds since 1995. As a recipient of grant funding the state must certify that its laws, policies, and practices are in compliance with the statutory language of VAWA. The reenactment of VAWA in 2005 mandated that states must ensure victims of sexual assault receive a forensic medical exam free of charge *regardless of whether they report the crime to police or otherwise cooperate with the criminal justice system*. This new statutory language has created an opportunity to review current policies and practices, and modify them as necessary to ensure Nevada adopts a victim-centered approach to evidence collection and access to the criminal justice system.

As administrator of Nevada's STOP Violence Against Women Formula Grant funding, the Attorney General's Office, in partnership with the Nevada Coalition Against Sexual Violence, held multi-disciplinary meetings in several communities throughout the state to discuss the impact of these new mandates on current practices. Nevada's eligibility for continued funding under the Violence Against Women Act is reliant upon all jurisdictions adopting policies and protocols that allow for forensic exams without the filing of a formal police report. Law enforcement agencies should not be burdened with the decision-making authority for whether a forensic exam should proceed.

An exception to this discretion for filing a police report exists when the victim is a child and knowledge of the victimization becomes available to a mandated reporter. NRS 202.882 outlines the duty to report violent or sexual offenses against children 12 years of age or younger. Pursuant to NRS 202.282, a report must be made to the appropriate law enforcement agency as soon as reasonably

practicable but not later than 24 hours after the person knows or has reasonable cause to believe that a sexual offense has been committed against the child.

These Best Practices Guidelines incorporate the input received from various disciplines and are intended to reduce trauma to sexual assault victims while streamlining and improving the collection of forensic evidence in cases of sexual assault. It is anticipated that these new guidelines may ultimately increase the number of victims reporting sexual assault crimes to law enforcement agencies thereby providing a more accurate picture of the prevalence of these crimes in our state.

These Best Practices Guidelines will help to ensure a consistent, uniform response to providing a standard of care to victims of sexual assault. Additionally, it provides a system that ensures Nevada's compliance with the new federal statutory mandates. Individual jurisdictions are encouraged to incorporate, in whole or in part, the following Guidelines. Implementing these new Guidelines will require local law enforcement officials, sexual assault advocates, healthcare providers, and allied professionals to develop local implementation strategies that protect victims while promoting public safety interests.

COMMUNICATION WITH THE VICTIM

Sexual assault victims are often reluctant to report their assault to anyone. They frequently carry tremendous feelings of fear, guilt, or denial. Victims may fear that speaking of the crime will cause others to view them differently or that speaking of the crime will set into motion a series of events over which they have no control. Victims may harbor guilt that the violence is somehow their fault, and, in the case of a known assailant, denial that someone they thought they knew would do something so unthinkable. Child victims are often fearful of reporting the assault, sometimes having been led to believe that others in their family will be hurt if they disclose the event(s).

Working with victims of sexual assault can be challenging. Their version of the incident may appear disjointed or unbelievable, and details may change over time. Alternatively, they may appear extremely calm, causing some to doubt whether the incident occurred. It is imperative to listen carefully to all the victim has to offer, remain objective when listening to their account of the incident, and provide every victim with choices for reporting the incident.

WORKING WITH THE ADULT VICTIM:

Local communities should decide how and from whom the victim will receive information regarding their reporting options, the forensic exam and medical care, local community services, and the criminal justice process. A victim-centered response will uniformly and consistently provide all reporting options to the sexual assault victim as soon as reasonably possible so the victim is able to make informed decisions.

There is equal importance in the method of delivering information to the victim, and in who provides the victim with reporting options. Ideally, a victim will be connected to a local victim advocate as soon as possible. However, since that is not always possible, the following information is provided for communicating with victims. Most importantly, whoever is speaking with the victim should present an environment of compassion and support. *Remember, sexual violence is never the victim's fault.*

What information should be provided to the victim?

- The options of immediately reporting and/or cooperating with law enforcement at the time of the forensic medical examination, or submitting to the forensic examination and retaining the prerogative to report and cooperate with law enforcement at a later time. *Remember – the victim has the right to decline the forensic medical exam all together.*
- The potential ramifications of declining to report the assault immediately to law enforcement. This includes informing the victim that evidence may be lost from the crime scene and chances for a successful investigation and future prosecution may be reduced.
- If not reporting immediately, provide the name and contact information for the individual(s) the victim is to contact in the event they later desire to proceed with reporting the assault to law enforcement. In the event the evidence is being stored “anonymously”, the victim should be provided any identifying information for the evidence.
- Information regarding the local, nonprofit rape crisis center within the community and the services available to the victim (advocacy, counseling, hotline, etc.).
- Specific details regarding the storage of the evidence, including the length of time the evidence will be stored and information on the destruction of evidence.

Notification of Victim Rights and Reporting Options

Victims are often unaware that they have options when it comes to reporting the sexual assault. These options should be communicated to the victim and the victim should be offered choices in how to proceed. The individual communicating these rights should resist influencing the victim to report the crime if the victim is uncertain at the time of the initial contact. However, the victim should be advised of the consequences related to these decisions, e.g. as noted above, a delayed report may create challenges for law enforcement when investigating the incident once it is reported.

Under Nevada law, the following rights and options are available to all adult victims of sexual assault:

- Victims of sexual assault are to be afforded a forensic medical exam and initial emergency medical care free of charge – the county in which the crime was committed is responsible for these costs (NRS 449.244). Assure victim that they should not receive a bill from the hospital (or any other medical/forensic facility) for any services related to the initial visit – either for the forensic exam or initial medical care.
- Victims cannot be mandated to file a police report in order to access the forensic exam for the purpose of collecting evidence (AGO 80-3) (modified language to NRS 449.244 submitted to the 2011 Legislature). Explain to the victim that Nevada law gives them options to file a formal police report later, once the initial trauma has subsided, if they so choose. It should be explained that the purpose of the forensic exam is to preserve time-sensitive evidence in the event the victim chooses to later report the crime.
- If a victim reports the crime, they may also have access to counseling and/or medical care valued at up to \$1000 (NRS 217.310). Currently, a victim must file a police report to be eligible for care

under NRS 217.310. Victim advocates (oftentimes those within the prosecution offices) can assist the victims in accessing these services.

- A victim can apply for Victims of Crime Compensation if they have submitted to a forensic medical exam regardless of whether a formal police report is filed. The forensic exam is sufficient to apply for compensation funds that can help support additional counseling and/or medical expenses beyond that for which the county is responsible. Community-based victim advocates or victim-witness specialists can assist the victim in filing for these funds.

The recommended period of evidence storage is at least 90 days. Therefore, victims should be advised that they have 90 days (or more if local jurisdictions adopt policies identifying a longer period) to decide whether or not to report their victimization. After this time, it is possible the evidence will be destroyed and will no longer be available for use in the investigation of the case. The local jurisdiction should adopt a policy for notifying the victim prior to any destruction of evidence.

INTERVIEWING THE CHILD VICTIM

GOAL OF THE INTERVIEW:

Obtain a statement from a child, in a developmentally-sensitive, unbiased and truth seeking manner that will support accurate and fair decision-making in the criminal justice and child welfare systems

CONSIDERATIONS FOR THE INTERVIEW:

- *Must be conducted in a child-centered, truth-seeking manner;*
- *Must be conducted in a non-judgmental setting;*
- *Location of interview should be comfortable, quiet and free from distractions;*
- *Take time to build a rapport with the child;*
- *Interviewer must be careful not to place suggestions into the child's mind;*
- *Conclude the interview with neutral discussions;*
- *Ensure the caregiver is prepared to be reunited with the child after the interview.*

The victim interview is the cornerstone of every investigation into child sexual abuse. Structuring the interview to determine the truth rather than create evidence involves achieving specific goals.⁵ Three important goals for every child interview are:

- Protecting against *improper influences* on memory or accurate reporting;
- Making sure that frightened or embarrassed children receive the *necessary assistance* to report crimes; and that
- *Developmental differences* of children are accommodated.

⁵ Koons, Dale L., *The Forensic Interview of Children*, 2008, website <http://members.iquest.net/~dkoons/technique.html>

Before beginning the interview, reframe the adult thought process by taking into consideration the child's ability to remember, the child's susceptibility to suggestion, the child's language level, the interview environment and the need to establish rapport.⁶ Although information obtained from an investigative interview might be useful for making treatment decisions, the interview is not part of a treatment process. Forensic interviews should not be conducted by professionals who have an on-going or a planned therapeutic relationship with the child. To protect against outside influence no person having a direct relationship with the child should be present, even for support. Rather, a trained victim advocate should accompany the child during the interview.

The location of the interview is an important consideration toward establishing the proper atmosphere for the child interview. The interview room should be specifically designed: comfortable, quiet, and free from distractions. There must be only one interviewer responsible for interviewing the child. In joint investigations two professionals may be present but only one should take the primary role during the questioning. The interview room needs to be equipped with non-intrusive video and audio equipment, and all interviews should be recorded. Such recordings document the interviewer's technique and captures the child's demeanor and statements.⁷

As the interview is initiated, it is important to develop trust with the child victim. It is suggested that the interviewer first discuss neutral, non-threatening topics to gain that trust and help the child to relax. The goal of this rapport building process is for the child to become comfortable with the interviewer. During this process the interviewer makes informal observations about the child's communication skills and developmental level. If the interviewer is unable to establish an adequate rapport with the child the interview should ended.

It is necessary for the interviewer to establish with the child the importance of telling the truth. This is often accomplished toward the end of the rapport-building phase. Questions about truth, lies and consequences related to general childhood experiences can go far towards attaining this goal. Communicate the importance of telling the truth and reach an agreement with the child that only the truth will be discussed during the interview. *Caution: This must be done delicately because children are sometimes threatened that others will not believe them if they tell. If the interviewer approaches this topic wrongfully the child may become defensive, withdraw from the interview.*⁸

At the conclusion of the interview, the discussion should revert back to neutral topics. This allows the interview to end on a positive note. After the child is relaxed and re-focused, the interviewer should thank the child for their participation regardless of any conclusions the interviewer may have drawn. If the child has any questions that the interviewer can answer, they should be answered prior to concluding the interview.

At this point, the child will be reunited with a caregiver. The interviewer and/or trained advocate should give special attention to how and when the child is reunited with their caregiver. The caregiver is often a non-offending parent or other significant relative. These persons often need information about what has happened to the child so that appropriate follow-up care (medical/therapeutic) can be provided. Hearing the extent of the child's victimization can be overwhelming for the caregiver. If the child and caregiver are brought together before the emotions of the caregiver have subsided, the child will suffer. The child will take upon themselves the responsibility for the pain their loved one is experiencing. For

⁶ *Special Report, Rocky Mountain Information Network, An Investigator's Guide to Interviewing Children, 2009*

⁷ *Koons.*

⁸ *Id.*

that reason it is important that the caregiver be allowed time for their emotions to subside before bringing the child and caregiver together. Educating the parent/caregiver is important, so that they understand that allowing the child to experience the parent's pain can be too big of a burden. The child may feel responsible for the pain and feel guilt that is compounding to their original trauma from abuse.⁹

General police training does not prepare an officer for these difficult cases. New and experienced investigators alike must continue to learn more about abuse of children. Forensic interviewing of children should only be conducted by individuals who have received specialized training in this area.

Benefits of Advocacy – True Victim-Centered Approach

Advocates are available to:

- *Provide the victim with emotional support;*
- *Provide the victim or the victim's family with referrals to multiple community resources;*
- *Develop a safety plan with the adult victim;*
- *Help the victim to regain control of their life;*
- *Work with non-offending parent and/or guardian prior to reuniting them with the child victim to help them understand how the child may perceive their reactions, questions, statements, etc.*
- *Accompany the victim and their family to court proceedings;*
- *Provide the victim with updates on the status of the criminal case;*
- *Assist in filing for Victims of Crime Compensation and county funds;*
- *Assist in filing for Temporary Protection or Stalking Orders; and*
- *Inform the victim of her/his rights relating to reporting to police, applying for compensation, right to be heard at sentencing, etc.*

Additional Privilege of Community-Based Advocates:

- *Maintain a higher level of confidentiality than anyone within the criminal justice system, thereby providing the victim with a greater level of confidentiality until decisions have been made regarding whether to report the incident to the police.*

⁹ Id.

Note: System-based advocates' confidentiality standards are determined by the systems they are representing.

If the person initially contacted by the victim is someone other than a victim advocate (health care professional, law enforcement, clergy, etc.), that person should refer the victim to local victim advocacy services as soon as practicable. Advocates can provide emotional support, follow-up care, court accompaniment when applicable, and make appropriate referrals for additional community services as needed. Additionally, community-based advocates maintain a statutorily protected confidentiality/privilege that may help create a safer and more comfortable environment for the victim when talking about the incident.

Filing Police Report – Adult Victims

Adult victims should be encouraged to proceed in the manner most appropriate for their individual situation based on the circumstances of the crime. At no time should a victim be pressured to file a formal police report if they are not ready to do so. When communicating with the victim about immediately filing a police report, the following information should be provided:

Potential Pros to Immediately Filing a Police Report:

- *A victim may access treatment and counseling for physical and mental effects of the sexual assault (NRS 217.310);*
- *Crime scenes may be investigated before evidence is lost;*
- *Witnesses may be located and interviewed while memories are current;*
- *Evidence collected in the forensic medical examination may be processed;*
- *An immediate investigation may be conducted and evidence may lead to identification, apprehension and prosecution of the assailant; and*
- *Some victims find support and/or empowerment by choosing to engage the criminal justice system.*

There may be many reasons that an adult victim chooses to delay reporting. Some of those reasons may include the following:

Potential Cons to Immediately Filing a Police Report:

- *A victim may fear further danger to self, family or others from the assailant (or supporters of the assailant) in response to the victim's interaction with law enforcement;*
- *A victim may fear further danger to self due to cultural responses to rape;*
- *A victim may be reluctant to identify the assailant or aid in arrest for a variety of reasons including financial dependence upon the assailant, the assailant's relationship to victim's children, or the victim may be concerned about institutionalized racism, sexism, homophobia, or other systems of oppression;*
- *A victim may be reluctant to be identified as a "victim" among family or the larger community;*
- *An investigation could reveal illegal activity of the victim, such as drug use, underage drinking, prostitution, or immigration status; and*
- *Some victims find the criminal justice system to be intrusive and may have difficulty facing their perpetrators in court.*

Delayed Reporting

Oftentimes adult victims of sexual assault need additional time to decide whether or not to file a police report. Many reasons and circumstances exist that may make delayed reporting a better option for them. Each community should determine who will be responsible for assisting victims with submitting reports when they have chosen to delay reporting. This would include accompanying the victim to the law enforcement agency when they are ready to report and ensuring the report is linked with the associated forensic evidence collected immediately after the incident.

The initial victim contact person should explain what it means to file a delayed report and who to contact when they are ready to report. The following information might be helpful to the first responder when discussing a delayed report with a victim.

Potential Pros to Adult Victims of Delayed Reporting

- *A victim receives the forensic medical exam and may access treatment and counseling for physical and mental effects of the sexual assault regardless of the decision to delay reporting;*
- *In cases where the victim knows or is financially dependent upon the assailant, the victim has time to address safety and financial concerns; and*
- *Evidence collected in the forensic medical examination may be processed.*

Potential Cons to Adult Victims of Delayed Reporting

- *A thorough and successful investigation of the assault could be more difficult; evidence disappears, witnesses become unavailable, and memories fade; and*
- *Delayed reporting may affect the perceptions and responses of prosecutors and jurors. Delayed reporting may influence the prosecutors' ability to obtain a conviction.*

Written and Oral Communications:

Victims are inundated with and often overwhelmed by the information provided when they present for a sexual assault forensic exam and/or medical treatment. Most likely they will not remember all the information provided about the exam, their rights, and their options. Therefore, victims should be informed of their rights and options both verbally and in writing. Included in the appendices to this document are forms for notifying victims of their rights and reporting options, as well as an informed consent outlining the victim's understanding of the consequences to the investigation of their case should they delay reporting.

Mandated Reporting for Child Victims

NRS 202.882 mandates that a report be filed when there is a suspicion of a sexual offense against a child who is 12 years of age or younger. Such a report should be made to law enforcement as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the other person has committed the violent or sexual offense against the child. Such a report should include both the name of the child and the name of the person who committed the violent or sexual offense against the child if known, the location where the violent or sexual offense was committed, and the facts and circumstances which support the person's belief that the violent or sexual offense was committed.

FORENSIC MEDICAL EXAM:

Communities must ensure that all victims, indiscriminate of age, race, gender, socio-economic status or other situation, have access to medical, legal, and advocacy services. In order to adopt a victim-centered approach, local communities should use a multidisciplinary approach in conducting the medical forensic examination. A multidisciplinary approach can afford victims access to comprehensive immediate care, help to minimize the trauma they may be experiencing, and encourage the use of community resources. For the adult victim choosing to report the crime, this approach can also enhance public safety by facilitating a thorough investigation and a successful prosecution, thereby increasing the likelihood of holding offenders accountable and ultimately preventing further sexual assaults. Raising public awareness about the existence and benefits of a coordinated response to sexual assault may lead more victims to disclose the assault and seek the help they need.¹⁰

In accordance with NRS 202.882, a forensic medical examiner has a duty to report an incident of sexual abuse against a child who is 12 years of age or younger. Such a report must be made to law enforcement. NRS 202.891 provides immunity from civil or criminal liability for the mandated reporter. NRS 202.891(1) states that “[i]f a person who is required to make a report pursuant to NRS 202.882 makes such a report in good faith and in accordance with that section, the person is immune from civil or criminal liability for any act or omission related to that report . . .”

Dual Purposes for Forensic Exam:

There is a dual purpose for conducting forensic medical exams. While the primary purpose of the forensic medical exam is to address the needs of the criminal justice system in collecting evidence, it also provides the opportunity to evaluate the medical status of the victim and link that victim to appropriate services.

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¹⁰ This paragraph is drawn partially from American College of Emergency Physicians’ *Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient*, 1999, p. 7.

Dual Purposes:

For the criminal justice system, the exam provides for:

- *Obtaining a history of the assault;*
- *Documenting exam findings;*
- *Properly collecting, handling, and preserving evidence;*
- *Interpreting and analyzing findings (post-exam); and*
- *Presenting findings and providing factual and expert opinion related to the exam and evidence collection.*

For the victim, the exam provides a venue for:

- *Evaluating and treating injuries;*
- *Conducting prompt examinations for the collection of evidence;*
- *Receiving support, crisis intervention, and advocacy;*
- *Receiving prophylaxis against STIs;*
- *Assessing female victims for pregnancy risk and discussing treatment options, including reproductive health services; and*
- *Receiving follow-up care for medical and emotional needs.*

Coordination among involved disciplines is strongly recommended to simultaneously address the needs of both victims and the criminal justice system. Providing information and support to victims can increase their level of comfort and involvement with the criminal justice system. A coordinated community response would include the services provided by advocates, health care providers, law enforcement, and prosecutors. It may also include mental health providers and legal service providers, among others.

Timing of Forensic Examinations

It is important to determine the timing of the sexual assault incident in relation to the presentation at a medical facility for the forensic examination. For adult victims, national and state standards currently dictate that the 72-hour window from the incident to the exam is the most critical time to successfully gather forensic evidence for investigation and prosecution. However, with the advancement of medical science, DNA and other evidence can be collected and identified up to seven days after the assault in adult victims.

For pediatric victims, this window of opportunity to collect forensic evidence shrinks dramatically. In most cases, exams done for the purposes of collecting forensic evidence must be done within the first 24 hours after the incident. However, in cases where the child has been bathed or where more than 24 hours have elapsed, a medical exam will still be formed in order to document injuries and/or collect evidence of other physical trauma to the child.

Who is Qualified to Perform the Forensic Exam

In Nevada, several health care professionals are eligible to perform adult sexual assault forensic exams. Those qualified include medical doctors, nurse practitioners, and registered nurses. Doctors and nurse practitioners are not mandated to have any specific training related to the forensic examination; however, it is highly recommended that they obtain specialized training specific to conducting a forensic medical exam. Although victims may receive a variety of treatments during the forensic exam process, the forensic exam is not purely a medical procedure. It should be viewed as more of a criminal justice function for the collection of evidence that will withstand any challenge in a court of law.

Unlike nurse practitioners and doctors, registered nurses must follow the guidelines of the Nevada State Board of Nursing that outline specific, nationally-recognized training and testing which must be completed before the registered nurse is certified and eligible to perform forensic examinations. If interested, please contact the Nevada State Board of Nursing to obtain specifics about the certification process. The Nevada State Board of Nursing website is: <http://www.nursingboard.state.nv.us/>.

In Nevada, exams in pediatric cases are primarily conducted by physicians or nurse practitioners. However, guidelines written by the Nevada Board of Nursing indicate that a SANE has ongoing, documented competency based on the Pediatric Education Guidelines for Sexual Assault Nurse Examiners of the IAFN¹¹.

Who Should Be Present During the Exam

The rationale of a victim-centered approach is to empower the victim by offering choices, thereby giving the victim control over their treatment once they present for a forensic medical examination. A victim advocate should be available to talk with the victim [and in cases of child victims, the victim's family] prior to the exam being performed.

Children are very susceptible to the outside influences of others, especially those they perceive to be in a position of authority. They can also be equally susceptible to how a loved-one responds to the disclosure. As such, the child's well-being should be considered when determining who should be present during the exam. To help protect against any reaction by the non-offending parent during the exam, the parent should be located in such a way that the child cannot view any type of uncontrolled response that parent may exhibit during the exam. The role of the advocate is critical in working with the non-offending parent to discuss the exam procedure, how best to help the child to reduce any fears during the exam, and how best to respond to the child after the exam.

The adult victim should be given the option of having the advocate, a family member, or a friend present during the exam if they so choose. This support system is extremely important to the victim who has already experienced significant trauma. The victim also has the prerogative to submit to all or part of the forensic exam. If language barriers exist, certified interpreters should be used whenever possible. The use of family members or advocates is discouraged. Additionally, a community-based advocate providing interpretation services without a waiver of confidentiality can potentially violate confidentiality privileges because the information they are relaying is being provided to the criminal justice system.

¹¹ Nevada Nurse Practice Act 2004

STANDARD EVIDENCE COLLECTION

It is important to adopt a standard of evidence collection in cases where sexual assault is suspected. Such a standard will ensure that consistent information and evidence is available for the ultimate prosecution of sexual assault crimes. Additionally, the efficiency and usefulness of the forensic examination kit should be revisited on an annual basis to determine if any changes are necessary. Finally, standardizing the evidence collection process, including the cost, permits counties to plan their budgets accordingly and will help to curb cost overruns.

Although the evidence collection process is most beneficial to the criminal justice system, it should be conducted in a manner acceptable to the victim. The victim should be given the option to have family members, friends, and/or the advocate present throughout the examination. Whenever possible, the exam should be performed by a Sexual Assault Nurse Examiner (SANE), certified nursing staff or physician trained in collection of forensic evidence. Any physician interested in obtaining specialized training in forensic examinations should contact the Nevada Coalition Against Sexual Violence <http://ncasv.org/>. It is recommended the examiner explain each procedure in detail before proceeding to help the victim fully comprehend the purpose behind each process and understand what to expect throughout the exam.

Standard Evidence Procedure

The Washoe County Crime Lab has been designated as the agency having oversight of the development and distribution of the forensic examination kits for all Nevada counties except for Lincoln, Esmeralda, Nye and Clark Counties. The guidelines of the lab take precedence over these Guidelines and must be followed for the collection, storage, and transportation of evidence. The Forensic Science Division Guidebook from the Washoe County Crime Lab can be accessed on-line at <http://www.washoesherriff.com/GUIDE.pdf>.

The Las Vegas Metropolitan Police Department Forensic Lab has been designated as the agency having oversight for the development and distribution of the forensic examination kits to Lincoln, Esmeralda, Nye and Clark Counties. Again, the lab guidelines take precedence over those outlined herein. Should you have questions about the criteria followed by the LVMPD Forensic Lab, please call 702-828-5665.

The national standard requires that every kit meets or exceeds a recommended minimum guideline for contents.¹² The minimum standards are identified below. These Best Practices Guidelines recommend additional forms be included in the kit relating to notification of victim's rights, informed consent regarding the evidence collected, etc. It is recommended that the standard kits provided by the Nevada crime labs be upgraded to meet these additional recommended guidelines. These forms can be found in the Appendices to these Guidelines.

Minimum Forensic Evidence Kit Standards

- A kit container. It is suggested that this container have a label with blanks for identifying information and documenting the chain of custody. Most items gathered during evidence collection are placed into the container, after being dried, packaged, labeled, and sealed according to jurisdictional evidence policies. Paper bags are typically provided for bulkier items that will not fit in the container (e.g.,

¹² A National Protocol for Sexual Assault Medical Forensic Examinations, September 2004, p.65.

clothing, bedding, etc). Some jurisdictions provide large paper bags to hold the container and additional evidence bags.

- An instruction sheet or checklist that guides examiners in collecting evidence and maintaining the chain of custody.
- Forms that facilitate evidence collection and analysis, including patients' authorization for collection or release of evidence and information to the law enforcement agency, the medical forensic history, anatomical diagrams, a signed notice of the victim's rights, informed consent regarding items collected during forensic exam for non-reported sexual assault cases (if applicable – See Appendix).

What Should Be Included in Standardized Collection?

Nevada guidelines outlined by the individual crime labs should be followed. National guidelines recommend including the following items:

- Patients' clothing, including underwear and foreign material dislodged from clothing;
- Foreign materials on patients' body, including blood, dried secretions, fibers, loose hairs, vegetation, soil/debris, fingernail scrapings and/or cuttings, matted hair cuttings, material dislodged from mouth using dental floss, and swabs of suspected semen, saliva, and/or areas highlighted by alternate light sources;
- Hair evidence (including head and pubic hair samples and combings);
- Vaginal/cervical swabs;
- Penile swabs;
- Anal/peri-anal swabs;
- Oral swabs;
- Body swabs; and
- Known blood, saliva, or buccal swabs of victim and consensual sexual partners for DNA analysis and comparison.

Pregnancy and Sexually Transmitted Infection

The risk of pregnancy from sexual assault is statistically 5%; however, pregnancy resulting from sexual assault often is a cause of great concern and significant additional trauma to the victim.¹³ The examiner should discuss the probability of pregnancy with female patients and discuss treatment options, including reproductive health services. Patients of different ages, social, cultural, and religious/spiritual backgrounds may have varying feelings regarding acceptable treatment options. Examiners must be

¹³ A National Protocol for Sexual Assault Medical Forensic Examiners, September 2004, p.111.

careful not to influence patients' choices of treatment. The examiner should discuss the options available to the victim and offer emergency contraception, such as Plan B, when appropriate.

Another significant concern for victims is the possibility of contracting a sexually transmitted infection (STI) (also known as a sexually transmitted disease or STD) from assailants. Patients should be offered information about the risks of STIs, symptoms, and the need for immediate examination if symptoms occur. Nurses and emergency room physicians may not be the most appropriate resources to providing counseling and follow-up care for sexually transmitted diseases. The examiner should provide the patient with appropriate community resources that can provide testing and treatment. Alternatively, the individual should be referred to their personal physician for testing.

The need for testing for STIs at the time of the forensic exam should be considered on a case-by-case basis by examiners and patients. Testing at the time of the initial exam provides a baseline result only. It does not typically have forensic value if patients are sexually active and an STI could have been acquired prior to the assault.¹⁴ Also, despite rape shield laws, there may be a concern that positive test results could be used against patients (e.g., to suggest sexual promiscuity) as defense counsel can access these tests results with a subpoena prior to trial. There may, however, be situations in which testing has legal purposes, as in cases where the threat of transmission or actual transmission of an STI is an element of the crime.

In some cases, it may be appropriate to encourage patients to accept prophylaxis against STIs. This should be considered on a case-by-case basis. If prophylaxis is accepted at the time of the exam, testing is usually not indicated medically. Routine preventive therapy after a sexual assault is often recommended because follow-up with these patients can be difficult.¹⁵ More information on sexually transmitted illnesses can be found in the National Protocol for Sexual Assault Medical Forensic Examinations, <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>.

Transferring Victims From One Facility to Another

If it is necessary to transfer the victim from one health care facility to a site designated for the forensic exam, an established protocol should be used that minimizes time delays and loss of evidence while addressing the victim's needs.¹⁶ Avoid transferring sexual assault victims whenever possible. Every transfer can destroy evidence and cause victims further stress. However, if a sexually assaulted individual arrives at a health care facility that, for some reason, is not able to provide a medical forensic exam, interagency transfer procedures must be in place to transfer that individual to the nearest designated exam site.

Evidence should be preserved when examining, treating, or transferring victims. If there are acute medical or psychological injuries that must be treated immediately, treatment should be provided at the initial receiving facility. ***It may be helpful to offer victims support and advocacy from advocates at both the receiving facility and exam site.*** A copy of all records should be transported with patients to the exam facility. (However, it may not be necessary to send all medical records if patients' medical needs are met before they are transferred to a non-medical exam site for evidence collection.) All health care facilities

¹⁴ Id.

¹⁵ Sexually Transmitted Diseases Treatment Guidelines, 2002, p. 70.

¹⁶ This section was drawn from the *North Dakota Sexual Assault Evidence Collection Protocol*, 2001, p. 12, and the *Texas Evidence Collection Protocol*, 1998, p. 14.

receiving Federal funds, including Medicare and Medicaid payments, are required to screen patients medically before transferring them to another health care facility.¹⁷

Recommended Cost of Evidence Collection

NRS 449.244 states that costs incurred for the forensic examination and emergency medical care of a sexual assault victim must be borne by the county in which the crime was committed. This statute is void of language relating to the cost of these services and may be addressed at a future legislation session. While the emergency medical care will vary from person to person, the cost of the forensic exam should remain consistent in order for counties to budget for these costs. It is recommended that the forensic exam should not exceed \$1500.00, inclusive of examiner fees, facility costs, lab work, and any prophylactic treatment deemed necessary. The forensic exam should include the collection of all items outlined above for standardized collection.

TRANSPORTATION & STORAGE OF EVIDENCE

Law Enforcement Responsibilities:

- *Law enforcement will provide an incident report number and subsequently store all evidence collected during sexual assault forensic examinations – even for those cases where a formal police report has not yet been filed.*
- *When notified by the medical facility of the availability of evidence, the law enforcement agency in whose jurisdiction the crime was reportedly committed will be responsible to retrieve the evidence within seven days and to transport the evidence to their secure evidence locker. In adult cases, the evidence will be held for a minimum of 90 days. If the victim submits a formal police report, that report will use the same incident number assigned to the evidence and such evidence will be held at the law enforcement facility until needed by the prosecution at trial.*
- *Law enforcement will transport the evidence to the crime lab to complete their investigation once a formal police report is filed.*

Jurisdictions statewide are faced with issues associated with the identification, transport, storage, and disposition of evidence collected in sexual assault forensic medical examinations in cases where the victim of sexual assault does not initially wish to report to law enforcement. Law enforcement agencies may be challenged with the transportation, storage and retrieval of evidence where they may or may not know the identity of the victim. Generally speaking, local law enforcement agencies have been storing evidence within their own agency facilities for other crime categories.

¹⁷ Emergency Medical Treatment and Active Labor Act, 42 U.S.C. 1395dd.

Transportation of Evidence

The forensic nurse examiner will ascertain from the victim where the incident took place. Law enforcement from the jurisdiction identified by the victim will be responsible to assign an incident number and pick up the evidence collected during the forensic medical exam. Once notified that the evidence is available the law enforcement agency should pick up the evidence within seven days and secure the evidence in accordance with their evidentiary procedure. (see Appendix 3, Notification to Law Enforcement – Forensic Exam Delayed Reporting).

The law enforcement agency will transport the evidence to the crime lab for processing in order to complete their investigation of the crime.

Evidence Storage

The recommendation of these Best Practices Guidelines is that law enforcement be charged with providing an incident report and subsequently storing all evidence collected during sexual assault forensic examinations. While recognizing the reality of limited resources, local communities are encouraged to store evidence as long as possible and continue to work toward extending the timeline. Law enforcement should coordinate with prosecutors regarding the storage of evidence and store evidence until such time as the prosecution agency deems it no longer necessary – even for those adult cases where a formal police report has not yet been filed. At a minimum, evidence should be stored for 90 days.

TRACKING EVIDENCE – CHAIN OF CUSTODY ISSUES

Criminal Justice Responsibilities:

- *The SANE or other medical examiner will collect all evidence available and complete the examination of the victim. The evidence will be documented on the sealed bag, e.g. contents, date of collection, identity of person collecting evidence, case name, etc.*
- *The SANE will notify the appropriate law enforcement agency to obtain an incident number and inform them that evidence is ready for pickup.*
- *Law enforcement will sign and date sealed envelopes/bags when accepting the evidence following proper law enforcement evidentiary procedures.*
- *When appropriate, crime lab personnel will sign envelopes/bags to accept evidence for processing.*

Chain of Custody

The chain of custody must be maintained for all evidence from the point of collection through disposition. If the evidence cannot be accounted for at all times beginning with the collection, there exists the possibility that the evidence was compromised. It is difficult for evidence to be admitted in court if the chain of custody is not intact.

For northern Nevada, the Jim Pagel SART/CARES Facility in Sparks is available to provide exams to victims from Washoe County as well as outlying counties. The nurse examiner will be responsible for collecting all pertinent evidence, identifying and listing all evidence placed into the evidence bags, contacting the appropriate law enforcement for an incident report number and notifying that agency that evidence is available for pick up.

In Clark County and many surrounding southern Nevada counties, Rose Heart at the University Medical Center is available to conduct adult exams. As referenced above, the nurse examiner will be responsible for collecting all pertinent evidence, identifying and listing all evidence placed into the evidence bags, contacting the appropriate law enforcement for an incident report number and notifying that agency that evidence is available for pick up.

In southern Nevada, all pediatric forensic exams are performed at Sunrise Hospital. Pediatric exams are performed by either a physician or other medical professional certified in forensic examinations for pediatric patients. All evidence will be collected and secured, and local law enforcement will be contacted to collect the evidence.

Sexual assault forensic evidence may be collected by a trained Sexual Assault Nurse Examiner, by an emergency room physician, or by a nurse practitioner. Regardless of who is responsible for collecting the evidence, all evidence must be documented and placed in sealed envelopes and/or bags for transfer to law enforcement. It is highly recommended that any potential examiner receive specialized training in evidence collection techniques and chain of custody issues. There are separate and distinct certifications for nurse examiners who are certified to conduct adult and pediatric examinations. The Nevada Coalition Against Sexual Violence is available to provide information on the availability of various training events throughout the country.

Significant work is currently being done to expand services throughout the state. A list of current examination sites and providers (as of September 1, 2010) is listed in the Appendices.

Transfer of Evidence to Law Enforcement

The law enforcement agency from the jurisdiction identified by the forensic examiner will be responsible for retrieving the evidence from the examiners' location within seven days of notification. Following the agency's standard evidentiary procedures, they will sign and accept the evidence and will store the evidence in their secure evidence locker for a minimum of 90 days. The Nevada statute of limitations for reporting adult sexual assault cases is 4 years. Once a police report is filed, there is no statute of limitation on prosecution. Jurisdictions have the discretion to store evidence beyond the 90 days recommended in these Guidelines

When an adult victim chooses not to immediately report the crime, the medical staff should provide the victim with information pertaining to the incident number, the date evidence was collected, and who to contact when and if they choose to file a formal police report. (See Informed Consent Regarding Items

Collected From Forensic Exam for Non-Reporting Sexual Assault Cases at Appendix 1 to these Guidelines).

PAYMENT FOR FORENSIC EXAMINATION AND EMERGENCY MEDICAL CARE

Authority and Recommendations:

- *Under NRS 449.244 the county in which the crime was committed is responsible for payment of the forensic medical exam and initial emergency medical care for a victim of sexual assault regardless of whether the victim files a formal police report.*
- *The cost for the forensic exam, inclusive of examiner fees, facility costs, lab work and any prophylactic treatment deemed necessary at the time of the exam should not exceed \$1500.00.*
- *Under NRS 217.310, a victim of sexual assault or their family member(s) may apply for up to \$1000 for **additional** treatment for physical injuries and/or emotional trauma. The filing of a police report is currently required to be eligible for this follow-up care.*
- *Applications for follow-up care under NRS 217.310 should be processed for approval by the county within five business days of receipt if a police report has been filed.*

Statutory Authority

NRS 449.244 states that “any cost incurred by a hospital for: (a) The examination of the victim of a sexual offense . . . or initial emergency medical care . . . must not be charged directly to the victim. The costs must be charged to the county in whose jurisdiction the offense was committed.”

Local communities must ensure victims are not billed for any services related to the sexual assault exam or initial medical treatment. It is recommended that each local jurisdiction conduct an assessment to determine how current billing practices are implemented and whether changes need to be made to comply with this statute. Such an assessment should include discussions with, but need not be limited to advocates, law enforcement personnel, prosecutors, forensic nurse examiners, hospital billing department staff, county budget office, etc. This will help to ensure that all disciplines involved with the process are familiar with how the county is handling the billing procedure in the event that a victim mistakenly receives a statement.

A local jurisdiction must also ensure the availability of the forensic medical exam at county expense without the mandate of the victim filing a police report. Therefore, the local jurisdiction should implement a system whereby the agency rendering payment for services can identify their responsibility

for payment of such bill immediately upon receipt. Many jurisdictions have initiated procedures whereby the nurse examiner will contact local law enforcement to obtain an incident number to confirm the bill for services is for the collection of evidence. This is an acceptable practice because, although law enforcement has been contacted, the victim has not been required to speak directly to a law enforcement officer or to file a formal police report.

In order that counties can better budget for these expenses, the recommended cost for the forensic examination of an adult victim of a sexual offense should not exceed \$1500.00. This amount is inclusive of examiner fees, facility costs, lab work and any prophylactic treatment deemed necessary at the time of the exam. It is possible that the initial emergency medical care for a severely injured victim would exceed this amount; however, the costs involved with forensic exam itself should not exceed \$1500.00.

Follow-up Care

In addition to the emergency care provided for under NRS 449.244, NRS 217.310 provides for follow-up care for the victim. NRS 217.310(1) provides that “If any victim of sexual assault requires medical treatment for physical injuries as a result of the sexual assault, *in addition to* any initial emergency medical care provided, or if any victim or spouse of such a victim suffers emotional trauma as a result of the sexual assault, the victim or spouse may, upon submitting an affidavit as required by NRS 217.310(2), apply to the board of county commissioners in the county where the sexual assault occurred for treatment at county expense.” If approved, the value of this follow-up care under NRS 217.310 cannot exceed \$1000.00.

Please note that the care provided for in NRS 217.310 is separate and distinct of the forensic medical exam and initial emergency medical care provided for in NRS 449.244. An applicant applying for care under NRS 217.310 must be a victim of sexual assault, or family member of the victim, and the victim must have filed a formal police report to be eligible for this follow-up care. The county should adopt a policy that gives priority to the applications received under NRS 217.310 and such applications should be reviewed and processed within five (5) business days of receipt.

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VICTIM ADVOCATES

Roles and Responsibilities:

- *Provide compassionate emotional support and help empower the victim and their family through information and choices for treatment and services;*
- *Discuss the adult victim's rights as it pertains to the forensic medical exam and the filing of a police report. Encourage the victim to make decisions which will be most beneficial to the victim's well-being as to whether a police report will be filed immediately or at a later date:*
- *Discuss whether the victim wants the advocate present during the forensic exam, police interview (if applicable), and/or court appearances;*
- *Obtain signatures from the adult victim on forms relating to notification of rights and procedures for evidence collection and storage;*
- *Ensure victim's safety upon release from hospital and develop a safety plan when necessary;*
- *In cases involving children, educate the family on how best to provide safety for the child;*
- *For child victims, the advocate should also provide information to the non-offending parent or guardian regarding appropriate response in the event the child reveals any new evidence at a later date;*
- *Inquire into victim's additional needs and make appropriate community referrals;*
- *Support victims through all stages of the criminal process, including providing updates on the status of their case, hearing dates, offender release dates (if available), etc.; and*
- *Assist with obtaining a copy of the police report or notification form showing that a forensic exam was performed, and assist with completion of the applications for Victims of Crime Compensation and county compensation as appropriate.*

The goal of these Guidelines is promote a healthy, respectful and appropriate response to victims of sexual assault. Victim advocates are crucial to making this happen. Their role within the process is helping to diminish victim's fears and doubts while providing tools for the victim to overcome the trauma

they have experienced. These tools come in the form of referrals to community resources and careful safety planning, to simply being available when the victim needs to talk.

Whenever possible, it is the recommendation of these Guidelines that victims be put in contact with a community-based advocate as soon as they present for services, whether to law enforcement, health care provider, school counselor, friend, etc. A community-based victim advocate plays a very different role than that of the Forensic Examiner, the law enforcement or prosecution advocate, or other criminal justice professionals. Nevada statutes provide the community-based advocate a higher level of confidentiality privilege when working with victims. This privilege may be reassuring to the victim when discussing the incident.

In addition to securing the forensic exam for the purposes of evidence collection, advocates are available to assist victims with filing for orders of protection and the application for financial compensation through Nevada's Victims of Crime Compensation Program. Contact information for the local community-based advocacy program should be provided to the victim who chooses to delay reporting the incident to law enforcement. Advocates should be available to accompany the victim to the law enforcement agency when and if the victim decides to report.

In cases of child victims, advocates can plan an important role in helping reunite the non-offending parent and other family members following the police interview. The advocate should give special attention to how and when the child is reunited with their caregiver. The caregiver is often a non-offending parent or other significant relative. These persons often need information about what has happened to the child so that appropriate follow-up care (medical/therapeutic) can be provided. Hearing the extent of the child's victimization can be overwhelming for the caregiver. If the child and caregiver are brought together before the emotions of the caregiver have subsided, the child will suffer. The child will take upon themselves the responsibility for the pain their loved one is experiencing. For that reason it is important that the caregiver be allowed time for their emotions to subside before bringing the child and caregiver together. Educating the parent/caregiver is important, so that they understand that allowing the child to experience the parent's pain can be too big of a burden. The child may feel responsible for the pain and feel guilt that is compounding to their original trauma from abuse.¹⁸

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¹⁸ Koons, 2008.

HOSPITAL STAFF

Roles and Responsibilities:

- *Give sexual assault patients priority as emergency cases.*
- *Provide the necessary means to ensure patient privacy. Maintain confidentiality when discussing the case with the patient and other hospital staff.*
- *Triage staff should inform sexual assault patients that advocacy services are available. Hospital staff should contact the local community-based victim advocacy program if the patient wishes to have an advocate present.*
- *For adult victims, law enforcement should only be contacted after the patient has been informed of her/his rights to have a forensic medical exam, free of charge, without the mandate of filing a police report and only upon the request of the patient.*
- *For child victims, hospital staff should contact law enforcement and/or child protective services as well as the community-based advocacy program.*
- *If exams are not performed at the facility where the victim presents, the hospital should help coordinate transport to the appropriate facility.*
- *Assess and respect patients' priorities.*
- *Address patients' safety concerns during the exam. Sexual assault patients have legitimate reasons to fear further assaults from their attackers. Community-based advocacy programs and/or local law enforcement may be able to assist facilities in addressing patients' safety needs.*
- *Provide information that is easy for patients to understand and that can be reviewed at their convenience.*
- *After the exam is finished, provide patients with the opportunity to wash, brush their teeth, change clothes, obtain food or drink, and make needed phone calls. If an advocate is not already present, assist them in arranging transportation home or to another safe location if needed. This could involve providing cab vouchers or having a friend present.*

Recommended Training

Hospital staff should be provided training to ensure they provide a victim-centered approach in working with patients disclosing sexual assault. This includes responding in a timely, appropriate,

sensitive, and respectful way. For adult victims, if current policy dictates that hospital staff is to contact law enforcement when a victim presents at the hospital, such policies should be revisited to ensure compliance with the Violence Against Women Act and specifically address the prohibition of mandating any victim cooperate with law enforcement before receiving an exam.

Protocols for adult and child victims will be very different for hospital staff when it comes to contacting law enforcement. Whereas the Violence Against Women Act provides choices to adult victims regarding the options for reporting the offense, hospital should follow state law for mandated reporting in cases of victims of child sexual abuse.

Hospital staff that provides patient intake should exercise discretion to avoid embarrassment for individuals of being identified in a public setting as a sexual assault victim. The staff should be familiar with the general procedures of the forensic exam to address patient's concerns in the event the nurse examiner is not immediately available. This might include information on the collection of physical evidence, the options to access of community-based advocacy at the time of the exam, and the availability of other community resources to the victim.

All discussions between staff, the patient, security, law enforcement and/or others relating to the sexual assault incident should be conducted in a confidential manner in order to protect the victim's privacy and comply with HIPPA. Hospital staff training is available through the Nevada Coalition Against Sexual Violence.

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FORENSIC NURSE EXAMINERS and PHYSICIANS

Roles and Responsibilities:

- *If a victim presents with urgent medical needs, the collection of forensic evidence should be secondary to emergency care;*
- *Explain victim's rights as they relate to the availability of family, friends, or advocates being present during the exam;*
- *Contact a local community-based advocacy program and/or local rape crisis center to secure an advocate for the victim when available;*
- *For adult victims, explain the victim's rights as they relate to the filing of a formal police report or delayed reporting;*
- *Proceed with the exam only after the adult victim is apprised of their rights and makes their wishes known, including whether they wish to have a friend, family member, or an advocate present during the exam;*
- *Collect evidence in accordance with the standard protocol of the crime lab to which the evidence will be forwarded;*
- *Obtain an incident number from the appropriate law enforcement agency;*
- *Secure evidence in appropriate locked cabinet to ensure chain of custody is protected;*
- *Notify appropriate law enforcement agency that evidence is available for pick up.*

It is essential that all sexual assault patients who present to health care facilities be thoroughly evaluated. Treating injuries alone is not sufficient in these cases. The medical professional who examines these patients must be educated and clinically prepared to collect evidence and document findings to a standard suitable for a court of law. Additionally, the health care professional should be knowledgeable about the standards necessary for maintaining chain of custody of the evidence collected. They should be able to coordinate crisis intervention and support for patients, as well as provide STI evaluation, pregnancy education, and discuss treatment options, including reproductive health services. They must be aware of and follow jurisdictional reporting policies, and be able to provide court testimony if necessary.¹⁹

¹⁹ National Protocol for Sexual Assault Medical Forensic Examinations

Forensic nurse examiners or physicians are in a unique position to pull together other members of a local sexual assault response team in an effort to provide the best services for victims. The examiners must be careful to remember their role with the victim is that of an objective fact finder, remaining neutral while collecting evidence for possible prosecution within the criminal justice system. Examiners can be subpoenaed and must offer testimony about the exam, including statements made by the victim during the exam.

Advocacy services are essential to incorporating a victim-centered approach to forensic medical examinations. The hospital staff or nurse examiner should enlist the services of the local community-based advocacy program or rape crisis center prior to proceeding with an exam. By statute, community-based advocates maintain a higher level of confidentiality when working with a victim of sexual assault. The advocate's role is to provide comfort and support for that victim during the exam and in the weeks and months following the incident. Communication between the victim and the community-based advocate is privileged and, therefore, the victim may be willing to more fully discuss details of the incident. Alternatively, the examiner's role is within the criminal justice investigative process and the associated confidentiality rules apply.

Considerations for Health Care Professionals:

Every action taken by responders during the exam process should be useful in facilitating patient care and healing and/or the investigation, if applicable.

Considerations for medical professionals:

- *Adapt the exam process as needed to address the unique needs and circumstances of each patient;*
- *Be aware of issues commonly faced by victims from specific populations;*
- *Understand the importance of victim services within the exam process. Involve victim service providers/advocates in the exam process (including the actual exam) to offer support, crisis intervention, and advocacy to victims, their families, and friends;*
- *Respect patient's request to have a relative, friend, or other support person present during the exam;*
- *Accommodate victim's request for responders of a specific gender as much as possible; and*
- *Prior to starting the exam and conducting each procedure, describe what is entailed and its purpose to patients. After providing this information, seek patient's permission to proceed and respect their right to decline any part of the exam. However, follow exam facility and jurisdictional policy regarding minors and adults who are incompetent to give consent.*
- *When working with a child victim, the medical professional should discuss each procedure in an age and developmentally appropriate manner that the child can easily understand.*

A medical professional will encounter victims from a variety of ethnic and cultural backgrounds. Culture can influence beliefs about the sexual assault or health care response. It can also influence beliefs in regard to emotional and criminal justice responses. Some victims may also have disabilities that could affect their treatment. Victims with disabilities may fear losing their independence and such fears could influence their cooperation with the criminal justice system.

The exam should be an interactive process that adapts to the needs and circumstances of each patient. Patients' experiences during the crime and the exam process, as well as their post-assault needs, may be affected by multiple factors²⁰, such as:

- Age;
- Gender and/or gender identity;
- Physical health history and current status;
- Mental health history and current status;
- Disability;
- Language needs and communication modalities;
- Ethnic and cultural beliefs and practices;
- Religious and spiritual beliefs and practices;
- Economic status, including homelessness;
- Immigration and refugee status;
- Sexual orientation;
- Military status;
- History of previous victimization;
- Past experience with the criminal justice system;
- Prior relationship with the suspect, if any;
- Whether they were assaulted by an assailant who was in an authority position over them;
- Whether the assault was part of a broader continuum of violence and/or oppression (e.g., intimate partner and family violence, gang violence, hate crimes, war crimes, and trafficking);
- Where the assault occurred;
- Whether they sustained physical injuries from the assault and the severity of the injuries;
- Whether they were engaged in illegal activities at the time of the assault (e.g., voluntary use of illegal drugs or underage drinking) or have outstanding criminal charges;
- Whether they were involved in activities prior to the assault that traditionally generate victim blaming or self-blaming (e.g., consuming alcohol or drugs prior to the assault or agreeing to go to the assailant's home);
- Whether contraceptive was used during the assault (e.g., victims may already have been on a form of birth control or the assailant may have used a condom);
- Capacity to cope with trauma and the level of support available from families and friends;
- The importance they place on the needs of their extended families in the aftermath of the assault;
- Whether they have dependents that require care during the exam, who were traumatized by the assault, or who may be affected by decisions patients make during the exam process;
- Community/cultural attitudes about sexual assault, its victims, and offenders; and
- Frequency of sexual assault and other violence in the community and historical responsiveness of the local justice system, health care systems, and community service agencies.

²⁰ Id.

Please refer to *National Protocol for Sexual Assault Examinations* for additional information on working with victims with disabilities or those from varying cultural backgrounds. This manual can be accessed on the web at <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>.

LAW ENFORCEMENT

Roles and responsibilities:

- *Ascertain whether the victim needs immediate medical attention and take appropriate steps based on that information;*
- *Once the immediate needs are met, the victim should be referred to an advocate, if available, either within the police agency or from a community-based victim services organization;*
- *Adult victims should be informed of their rights regarding access to a forensic medical exam regardless of whether they choose to formally report the crime. Transportation to the medical facility should be coordinated either with family, the law enforcement officer, or an advocate. An incident number should be provided to the forensic examiner for evidence tracking;*
- *Adult victims should be provided with information regarding their options for filing a formal police report. Additionally, they should be informed of the potential ramifications of not immediately reporting the assault, e.g. additional evidence may be lost from the crime scene, chances for successful investigation and prosecution in the future may be reduced, etc.;*
- *If the victim chooses to report, a detailed accounting of the event should be taken by an investigator trained in working with victims of sexual assault;*
- *Adult victims who choose not to report should be provided with the name and contact information for the individual to assist them in the event they desire to proceed at a later time with reporting the assault to law enforcement. They should also be provided any identifying information for the evidence in the event the evidence is being stored anonymously;*
- *In order to avoid any appearance of leading or influencing a child victim, interviews with child victims should be conducted by an individual specifically trained in interviewing children.*

Historically, law enforcement may have been contacted by hospital staff and responded to the emergency room to meet with the sexual assault victim. The law enforcement officer would conduct an interview with the victim about details of the assault and would make a determination as to whether or not the elements of a crime existed. After obtaining preliminary information from the victim and determining that there existed reasonable suspicion a crime had occurred, law enforcement would then authorize the forensic medical exam and proceed with investigating the crime and securing alternative crime scenes as appropriate. If, however, the officer determined there was not reasonable suspicion of a crime, the officer may not have authorized a forensic medical examination.²¹

Denying a victim of sexual assault the opportunity for a forensic medical examination based on an individual's belief as to the existence of a crime or the victim's decision not to report the assault to law enforcement violates the Violence Against Women Act of 2005 and threatens the very funding Nevada receives to assist in the state's response to victims of sexual assault. Local jurisdictions must ensure that every sexual assault victim has the opportunity for a forensic medical examination, regardless of whether or not the adult victim files a report ~~is immediately filed~~.

Law enforcement agencies should establish clear and concise procedures for responding to sexual assault crimes to ensure that a victim-centered approach is maintained. Clearly, victims are not suspects, and they cannot be detained or forced to do anything they don't want to just because they have disclosed that they were sexually assaulted. If the adult victim states that they are not interested in reporting or cooperating with law enforcement, they still have the option of the forensic medical examination, and having the evidence collected and stored for a designated period of time. The victim should be referred to the local community advocacy program to assist in finding additional community resources as needed. The advocate should be available to accompany them if and when they choose to formally report the incident.

When responding to an incident of child sexual assault, law enforcement should be cautious in how they proceed when talking with the child. Children can be easily influenced by people in positions of authority. Like the adult victim, they may be reluctant to speak to the details of their victimization. Any interview conducted of a child victim should be performed by an officer or investigator who has received training specific to interviewing child victims.

The victim interview is the cornerstone of every investigation into child sexual abuse. Structuring the interview to determine the truth rather than create evidence involves achieving specific goals.²² Three important goals for every child interview are:

- Protecting against *improper influences* on memory or accurate reporting;
- Making sure that frightened or embarrassed children receive the *necessary assistance* to report crimes; and that
- *Developmental differences* of children are accommodated.

²¹ *Ensuring Forensic Medical Exams for all Sexual Assault Victims*, A Toolkit for States and Territories, A Cooperative Agreement between the U.S. Department of Justice, Office on Violence Against Women and the Maryland Coalition Against Sexual Assault, December 2008

²² Koons, Dale L., *The Forensic Interview of Children*, 2008, website <http://members.iquest.net/~dkoons/technique.html>

Forensic medical exams, prompt reporting, timely collection of evidence, and scientific evidence are directly related to an increased rate of arrest of sexual offenders, and have a positive influence on the outcome of sexual assault prosecutions.²³ It is important to recognize that when an assault is not reported to law enforcement as soon as possible, the prospect of conducting a thorough investigation may be diminished. The opportunities for law enforcement to conduct interviews of witnesses, thoroughly investigate the crime scene, or collect additional evidence from alternative crime scenes may be eliminated completely. However, the emotional trauma of sexual assault may impede a victim's ability or desire to cooperate in the investigation of the crime. Additionally, while law enforcement professionals recognize that offenders often have multiple victims, the burden of holding that offender accountable should not be shifted to the victim. Therefore, it is important to keep in mind that the responsibility for holding the offender accountable is the primary goal of law enforcement and they should not make reference to the potential of other victims when informing the victim of his or her rights to make an immediate or delayed report.

The impact of a deferred report should be shared with the adult victim prior to the collection of evidence in an honest and neutral manner so that a victim is informed not only of their options, but also of the benefits and risks of delayed reporting. Nevertheless, successful evidence collection during forensic medical examinations has a direct correlation to successful prosecution.²⁴ The circumstances under which evidence is collected play an essential role in the future of the case long before it enters the courtroom. For example, physical evidence connecting the suspect to the crime is a critical variable that prosecutors consider when determining if and/or how they will proceed with a case.

Additional Law Enforcement Responsibilities

- Provide incident number to the forensic examiner upon notification of victim presenting for a forensic exam;
- Inquire into whether an advocate is on location;
- Timely retrieval of evidence for storage, ensuring chain of custody is protected.

Communication With Victim

- Be an objective fact-finder – remember that preservation of the evidence is the key but be careful not to question motives, appearance, etc.;
- Take adult victims' statement when they choose to report ;
- Use similar words to those of the victim when referring to their statement;
- For the child victim:
 - take time to build a report with the child;
 - conduct interview in a child-centered, truth-seeking manner;

PROSECUTION

Sexual assault cases are some of the most difficult cases to prosecute. Prosecutors must have strong trial skills and acute understanding of the impact these crimes have on their victims. Prosecutors must educate jurors to overcome sexual assault myths that exist primarily in adult cases. The use of

²³ R. Campbell. 2004, November. The effectiveness of Sexual Assault Nurse Examiner (SANE) programs. *VAWnet Applied Research Forum: National Online Resource Center on Violence Against Women*.

²⁴ R. Campbell. 2004, November.

expert witnesses can be of assistance in this regard. The Nevada Coalition Against Sexual Violence can assist prosecutors in locating expert witnesses to assist in a trial or evidentiary hearing.

There are many similarities between adult victims of sexual assault and domestic violence. Additionally, sexual assault is known to occur in cases of domestic violence. A common thread to success in both types of cases is the presence of advocacy support throughout the case.

Early and Consistent Contact with Victims

Similar to the approach taken in domestic violence cases, early and consistent contact with sexual assault victims and immediate referrals to appropriate support services are critical to the prosecution of a case. The prosecutor's office should utilize available resources to create a dialogue with the victim to address their joint or individual concerns.

Working with Victim Advocates

Prosecutors handling sexual assault cases should work in close conjunction with victim advocates whenever possible. Working with an advocate who has an ongoing relationship with the victim greatly facilitates communication between the prosecutor and the victim, making it more likely that the victim will continue to cooperate in the case and will provide the prosecutor with information helpful to protect her safety during the proceedings. Victim advocates can provide important background information about the victim, the perpetrator, and the family circumstances which is helpful in the prosecution of the case and at sentencing.²⁵ They can also communicate with the victim and their family many important details about the criminal justice system as the case moves forward.

WHEN CHARGES ARE FILED

Victims of sexual violence are oftentimes anxious about the court process. Although proper evidence collection may allow prosecutors to proceed in prosecuting the case with physical evidence only, the victim's testimony will most likely be necessary. Victims and their families have concerns about how the case will proceed, whether the prosecution will affect their own safety, media and community perceptions, and testifying before the perpetrator. Prosecutors should work closely with systems-based victim/witness advocates to keep victim apprised of the status of the case and to ensure a victim is knowledgeable about the prosecution of the case, e.g. hearings dates, trial testimony, sentencing, etc.

General Rights of Victims' of Crime in Nevada

Victim/witness advocates can be instrumental in assisting victims throughout the process. The advocates should share the following information with the victims:

- The status of their case;
- Their right to remain free from intimidation or dissuasion;
- When their impounded property may be released;
- Their right to receive a witness fee for lawful obedience to a subpoena;
- The existing victim compensation laws and their right to compensation, if applicable;

²⁵ State of Nevada, *Domestic Violence Prosecution Best Practice Guidelines*, adopted by the Nevada Advisory Council for Prosecuting Attorneys on May 4, 2006

- Their right to a secure waiting area, which is not available to the defendant or his family, when they are at court proceedings.
- The option to know when the defendant is released from custody before or during trial (upon written request by the victim); and
- When the offender is released from prison (upon written request by the victim).

The Right to Be Heard at Sentencing

The Legislature is charged with making laws providing that the victim of a crime, personally or through a representative, shall be:

- Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding.
- Allowed to be present at all public hearings involving the critical stages of a criminal proceeding.
- Allowed to be heard at all proceedings for the sentencing or release of a convicted person after trial.

Before imposing sentence, the court shall afford the victim an opportunity to appear personally, by counsel or by a personal representative to reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim, and the need for restitution.

Additionally, the prosecutor must give reasonable notice of the sentencing hearing to the person against whom the crime was committed; a person who was injured as a direct result of the crime; the surviving spouse, parents or children of a person who was killed as a direct result of the crime; and any other relative or victim who requests in writing to be notified of the hearing.

Restitution

The court can order restitution against a defendant who is found guilty. Acceptable restitution includes direct costs to pay for medical bills, property damage and unrecovered stolen property. In order for the court to order the defendant to make restitution, the prosecutor or victim/witness advocate must obtain from the victim copies of bills and/or estimates for replacement or repair. If the crime is a gross misdemeanor or felony, those documents should also be provided to the parole and probation officer conducting the pre-sentence report.

Other Rights

NRS 176A.630 provides for a hearing to revoke probation and modify a defendant's sentence. The Division of Parole and Probation must notify the victim of the proposed changes and that the victim has the right to be heard at those hearings. The victim must request such notification in writing to the Department of Parole and Probation.

RESOURCES

A National Protocol for Sexual Assault Medical Forensic Examinations, U.S. Department of Justice, Office on Violence Against Women, September 2004, NCJ 206554

An Investigator's Guide to Interviewing Children, Rocky Mountain Information Network, 2009

Emergency Medical Treatment and Active Labor Act, 42 U.S.C. 1395dd

Ensuring Forensic Medical Exams for all Sexual Assault Victims, A Toolkit for States and Territories, A Cooperative Agreement between the U.S. Department of Justice, Office on Violence Against Women and the Maryland Coalition Against Sexual Assault, December 2008

Frequently asked questions on STOP formula grants: 22. U.S. Department of Justice, Office on Violence Against Women. Updated November 21, 2007.

Rape and Sexual Assault: Reporting to police and medical attention, 1992–2000. C.M. Rennison. 2002, August. Bureau of Justice Statistics, Selected Findings. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs. NCJ 194530.

The Effectiveness of Sexual Assault Nurse Examiner (SANE) Programs, R. Campbell, 2004, VAWnet Applied Research Forum: National Online Resource Center on Violence Against Women

The Forensic Interview of Children, Dale L. Koons, 2008, website
<http://members.iquest.net/~dkoons/technique.html>

Sexual Violence: Fact sheet. U.S. Department of Justice, Centers for Disease Control (CDC) Injury Center. Data is cited from the National Violence Against Women Survey and National Crime Victimization Survey.

State of Nevada, Domestic Violence Prosecution Best Practice Guidelines, adopted by the Nevada Advisory Council for Prosecuting Attorneys on May 4, 2006

APPENDICES

- Appendix 1 Informed Consent Regarding Items Collected From Forensic Exam For Non-Reported Sexual Assault Cases
- Appendix 2 Notification of Victim's Rights and Reporting Options
- Appendix 3 Notification to Law Enforcement of Forensic Exam – Delayed Reporting Option
- Appendix 4 Request for Non-Law Enforcement Intervention
- Appendix 5 Certification of Forensic Examination In Lieu of a Police Report
- Appendix 6 List of Forensic Exam Providers as of 9/1/2010

These sample forms are being provided as examples of forms which could be adopted for use within your community.

For patients 18 years and older only!

INFORMED CONSENT REGARDING ITEMS COLLECTED DURING FORENSIC EXAM FOR NON-REPORTED SEXUAL ASSAULT CASES

I received a Forensic Exam that included collection of evidentiary items. I do not want to be interviewed at this time by law enforcement and I am not ready to file a police report at this time.

I have read and understand the following:

- A. I will not be billed for the forensic exam and/or initial emergency medical care provided.
- B. I understand that the benefits of cooperating with law enforcement at this time include:
 - a. Law enforcement will have an opportunity to collect evidence from the crime scene and from the suspect;
 - b. Witnesses may be interviewed in a timely fashion;
- C. I understand that by delaying an interview and not filing a police report at this time, the following may occur:
 - a. Evidence that would normally be collected by law enforcement may be permanently lost;
 - b. Suspects and witnesses will not be timely interviewed and they may not be identifiable at a later time;
 - c. It will be more difficult for charges to be filed against the suspect if I delay filing a police report; and
 - d. I will still be eligible to apply for Victims of Crime Compensation to help with ongoing medical and/or counseling expenses.
- D. I understand that law enforcement will hold the evidentiary items collected from the forensic exam for a minimum of ninety (90) days from the date of assault. (Storage time may vary in different jurisdictions – check with local law enforcement to ensure timeline for evidence storage).
 - a. If I decide to file a police report within the 90 days, it is my responsibility to call the _____ (advocacy agency) at _____ (phone) and notify them of my wishes.
 - b. If I need more time to decide whether to file a police report, it is my responsibility to contact either the advocacy agency identified above or the law enforcement agency in the jurisdiction where the assault occurred.
 - c. **After ninety (90) days from the date of assault, the items that were collected during the forensic exam may be disposed of without any further notification to me.**

My signature below indicates my understanding of the details above.

Signed

Date

Printed Name

Witness

Date of Sexual Assault: _____
Date of Exam: _____

Incident or SANE #: _____

NOTIFICATION OF VICTIM'S RIGHTS AND REPORTING OPTIONS

Under Nevada law,

- You are to be afforded a forensic medical exam and initial emergency medical care without cost to you – the county in which the crime was committed is responsible for these costs (NRS 449.244).
- You cannot be mandated to file a police report in order to access the forensic exam for the purpose of collecting evidence. You have options to come forward later, once the initial trauma has subsided, to file a formal police report. However, the statute of limitations in Nevada for filing a police report for a reported sexual assault is 4 years from the date of the incident (NRS 171.085)
- You may also have access to counseling and/or medical care valued at up to \$1000 (NRS 217.310). This follow-up care is separate from the forensic exam and initial emergency medical care. You must file a police report to be eligible for care under this statute. The victim/witness advocates (usually those within the prosecution offices) can assist you in applying for and accessing these services.
- You are eligible to apply for Victims of Crime Compensation if you have submitted to a forensic medical exam regardless of whether a formal police report is filed. The forensic exam is sufficient for eligibility to file for compensation funds which can help support additional counseling and/or medical expenses beyond those for which the county is responsible. Community-based victim advocates or victim-witness specialists can assist you in filing for these funds.
- The evidence collected during this exam will be stored for 90 days in most jurisdictions (check with local law enforcement if you are considering a delayed report). After that time, the evidence may be destroyed without notice to you.
- If you have questions or choose to file a police report at a later date, you should contact:

Advocate

Phone

NOTIFICATION TO LAW ENFORCEMENT

Forensic Exam – Delayed Reporting Option

Date: _____

Patient's Name: _____

DOB: _____

Patient's Address: _____

Date of Assault: _____

Location of Assault: _____

Police Incident Number: _____

Forensic Exam Kit Number: _____

Information provided for statistical purposes only.

Please do not attempt to contact this patient.

Signature of Medical Examiner

REQUEST FOR NON-LAW ENFORCEMENT
INTERVENTION

(a similar form is currently being used in Las Vegas)

I, _____, request that law enforcement not be notified at this time that I am a victim of a sexual assault.
(Full Name)

Initials _____ I understand by making this choice the ability to investigate the circumstances of my crime, recover evidence, gather witness statements, and prepare this matter for possible prosecution at a later date is greatly diminished.

Initials _____ I understand by making this choice the person(s) who I believe is/are responsible for the acts committed against me will not be notified at this time regarding this incident.

Initials _____ I understand the sexual assault evidence (to be explained to the victim by the SANE personnel) will only be retained for a period of ninety (90) days from the date of the exam and will then be destroyed through regular bio-hazard protocols in accordance with University Medical Center policies.

Initials _____ I understand law enforcement maintains the right to initiate an investigation; however I will not be required to cooperate with that investigation unless I so choose.

Initials _____ I understand that it is my responsibility to contact law enforcement, Rape Crisis Advocates, or the medical personnel who performed my sexual assault exam if I wish to have this matter investigated criminally at a later time. Contact information for these entities is provided below.

The Rape Crisis Center: 702-385-2153
Rose Heart: 702-383-3922
Las Vegas Metro Advocates: 702-828-2955

Signature Date

Witness Date

**CERTIFICATION OF FORENSIC EXAMINATION
IN LIEU OF A POLICE REPORT**

This certifies that on this _____ day of _____, 20____, I performed a forensic medical exam for the purposes of collecting evidence for a potential sexual assault prosecution. This certification is in lieu of a police report for purposes of filing for Victims of Crime Compensation or follow-up medical care pursuant to NRS 217.310.

Victim's Name: _____

Date of Exam: _____

Location of Exam: _____

Jurisdiction of Assault : _____

Printed Name of Forensic Examiner

Signature of Examiner

DATED: _____

**NEVADA SEXUAL ASSAULT
FORENSIC EXAMINATION LOCATIONS**
(as of September 1, 2010)

Northern Nevada

Jim Pagel CARES/SART Facility
2395 East Prater Way
Sparks, Nevada 89434

Clark County and other southern Nevada counties

University Medical Center (adult exams)
1800 West Charleston Blvd.
Las Vegas, Nevada 89102

Sunrise Hospital and Medical Center (pediatric exams)
3186 South Maryland Parkway
Las Vegas, NV 89109

Nye County

No to Abuse
621 South Blagg Road
Pahrump, Nevada 89048