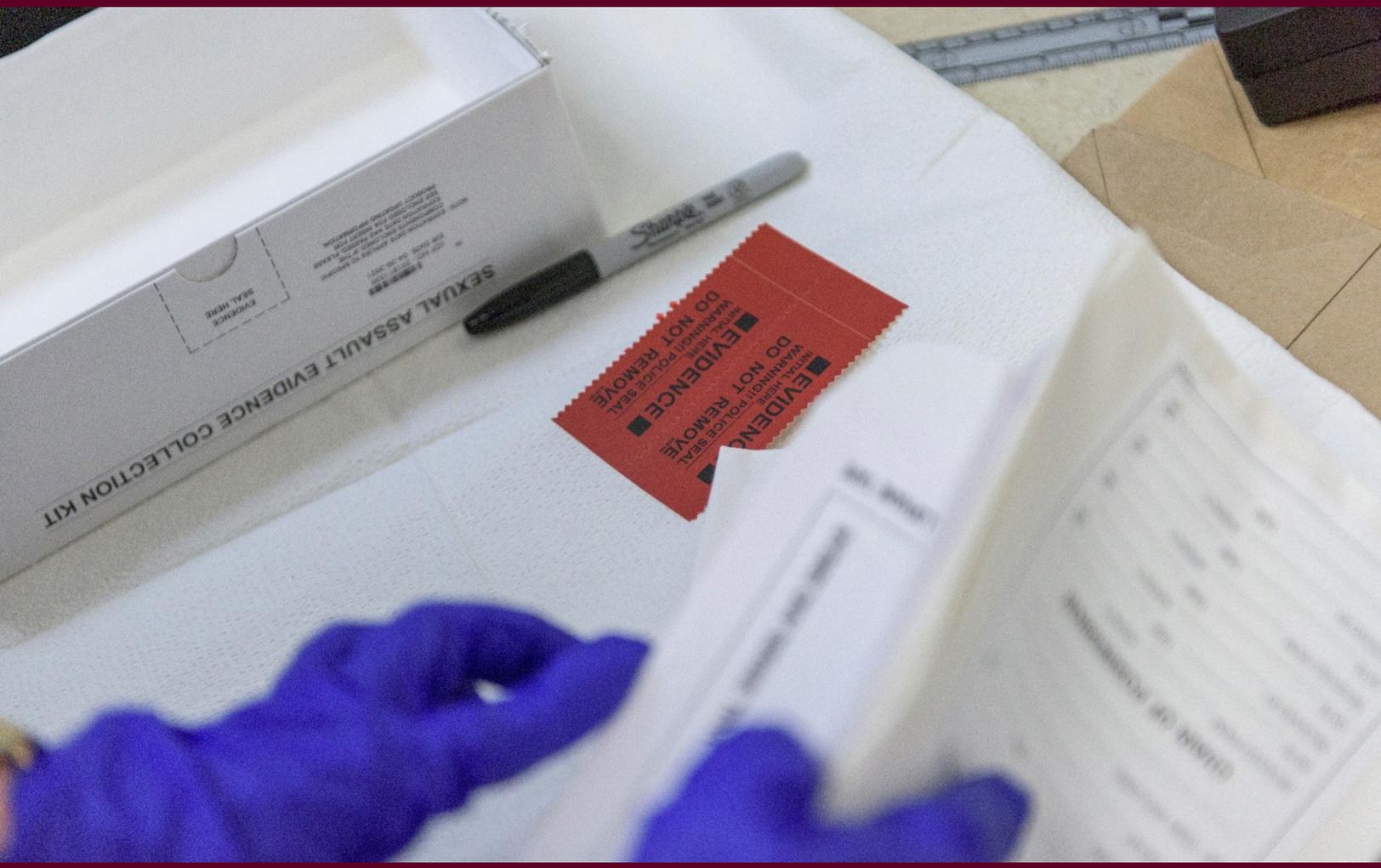


# TEXAS EVIDENCE COLLECTION PROTOCOL

# 2022



TEXAS A&M HEALTH  
Center of Excellence  
in Forensic Nursing



Texas Attorney General  
Sexual Assault Prevention and  
Crisis Services Program

# TEXAS EVIDENCE COLLECTION PROTOCOL

## INTRODUCTION

This protocol provides recommendations to medical, legal, law enforcement, advocacy and forensic science professionals on the identification, collection and preservation of physical evidence and the minimization of physical, psychological and spiritual trauma to the patients who present after sexual assault, as designated by [Texas Government Code §420](#). It is designed as a resource for responders rather than persons who have experienced sexual assault.

The content and discussion in this protocol will necessarily discuss the sexual assault of individuals. Much of it may be emotionally and intellectually challenging. We have done our best to make this protocol trauma informed. Additionally, we recommend children do not see this content. Resources and references for secondary trauma are accessible from the [Office for Victims of Crime \(OVC\)](#) and in the reference section (n.d.).

The Texas Evidence Collection Protocol, the Sexual Assault Evidence Collection Kit (SAEK) forms and diagrams are accessible through:

- Texas A&M University, School of Nursing, [Center of Excellence in Forensic Nursing](#)
- [Texas Attorney General's Office](#)

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## PURPOSE

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

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

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

People who experience sexual assault have choices to engage or not engage in any portions of their health care, law enforcement investigation, or advocacy support. However, mandatory reporting is required for those identified in statute.

A collaborative response to sexual assault is strongly recommended and has many benefits. People who are sexually assaulted and utilize an advocate are more likely to show better health outcomes and continue to work with law enforcement ([Campbell, 2006](#)). A collaborative response to sexual assault has been shown to:

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

## KEY POINTS OF PROTOCOL

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

1. **Sexual assault is a trauma, regardless of the presence of physical injuries.** Health care providers can help reduce the neurobiological response to trauma by providing trauma-informed and person-centered care that restores safety, security, and control to patients. Individuals who experience sexual violence deserve to be seen, heard, and respected.
2. **Treat emergent medical conditions before, or concurrently to, addressing forensic issues such as evidence collection.**
3. **Non-fatal strangulation is a life-threatening event that requires specialized assessment and close patient monitoring.**
4. **Patients are integral health care team members who guide the assessment process and have the right to decline any part, or all, of the examination and evidence collection.**
5. Use open-ended questions that allow patients to provide their medical forensic history of what occurred.
6. In all patient interactions, it is important to maintain confidentiality of medical forensic information and documentation ([Michigan Legal Publishing, 2021](#)). The Health Insurance Portability and Accountability Act (HIPAA) applies to this patient population.
7. Offering access to a [sexual assault advocate](#) during the medical forensic assessment is mandated by Texas law. A sexual assault advocate is distinct and separate from health care, law enforcement, and judicial personnel.
8. [Mandatory reporting](#) is required “without exception” for suspected abuse of children, the elderly, or persons with disabilities, regardless of the wishes of the patients, their families, or friends ([Texas Family Code §261.101](#)).
9. [Child patients](#) should always be seen by a practitioner with forensic expertise (sexual assault nurse examiner, forensic nurse examiner, child abuse pediatrician or specially trained medical forensic professional). Child patients should have care coordination through a children’s advocacy center, with specialized resources and referrals or child specific support services ([Office of the Texas Governor, Greg Abbott, n.d.](#)).
10. Patients who are suspected perpetrators should always be seen by a practitioner with forensic expertise (SANE, forensic nurse examiner, child abuse pediatrician or specially trained medical forensic professional). Ensure patients who are suspected perpetrators and patient who reports being sexually assaulted are separated to ensure psychological and physical safety for all.
11. During the examination and evidence collection process, avoid contamination of potential evidentiary items. Label bags and complete all information requested on bag. After all the

evidence and clothing have been collected by the health care provider and sealed appropriately, evidence should be opened only by crime laboratory personnel.

12. All patients deserve person-first, culturally responsive, trauma-informed, quality, and non-biased health care.
13. It is critical that adult military-affiliated survivors receive information about their reporting options from a person knowledgeable of the Department of Defense policy that defines reporting choices to ensure the patient's rights are not violated.
14. Policies should be in place regarding the process for obtaining photographs; the method used to identify the patient in the photographs; and documentation that the photographs exist in the permanent medical record for each patient.
15. **All patients are entitled to a medical forensic examination** ([Texas Code of Criminal Procedure §56](#)).
16. Adult patients who do not meet mandatory reporting criteria, may choose to have sexual assault evidence collected without reporting to law enforcement ([Texas Health and Safety Code §323](#)). A sexual assault evidence collection kit should be used only when indicated, as described in Subchapter F ([Texas Code of Criminal Procedure §42](#)).

## DEFINITIONS

### PATIENT DEFINITIONS

#### **Adolescent:**

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

#### **Adult:**

“Person who is not a child” ([Texas Family Code §101.003](#)).

#### **Elderly individual:**

“Person 65 years of age or older” ([Texas Penal Code §22.04](#)).

#### **Person with a disability:**

“Person with a mental, physical, or intellectual or developmental disability that substantially impairs the person’s ability to provide adequately for the person’s care or protection and who is: (A) 18 years of age or older; or (B) under 18 years of age and who has had the disabilities of minority removed ([Texas Human Resources Code §48.002](#)).

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

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

## MEDICAL AND FORENSIC TERMINOLOGY

Consistent use of terminology and measurement is important for accurate documentation of sexual assault medical forensic assessment findings. See [documentation of injuries](#).

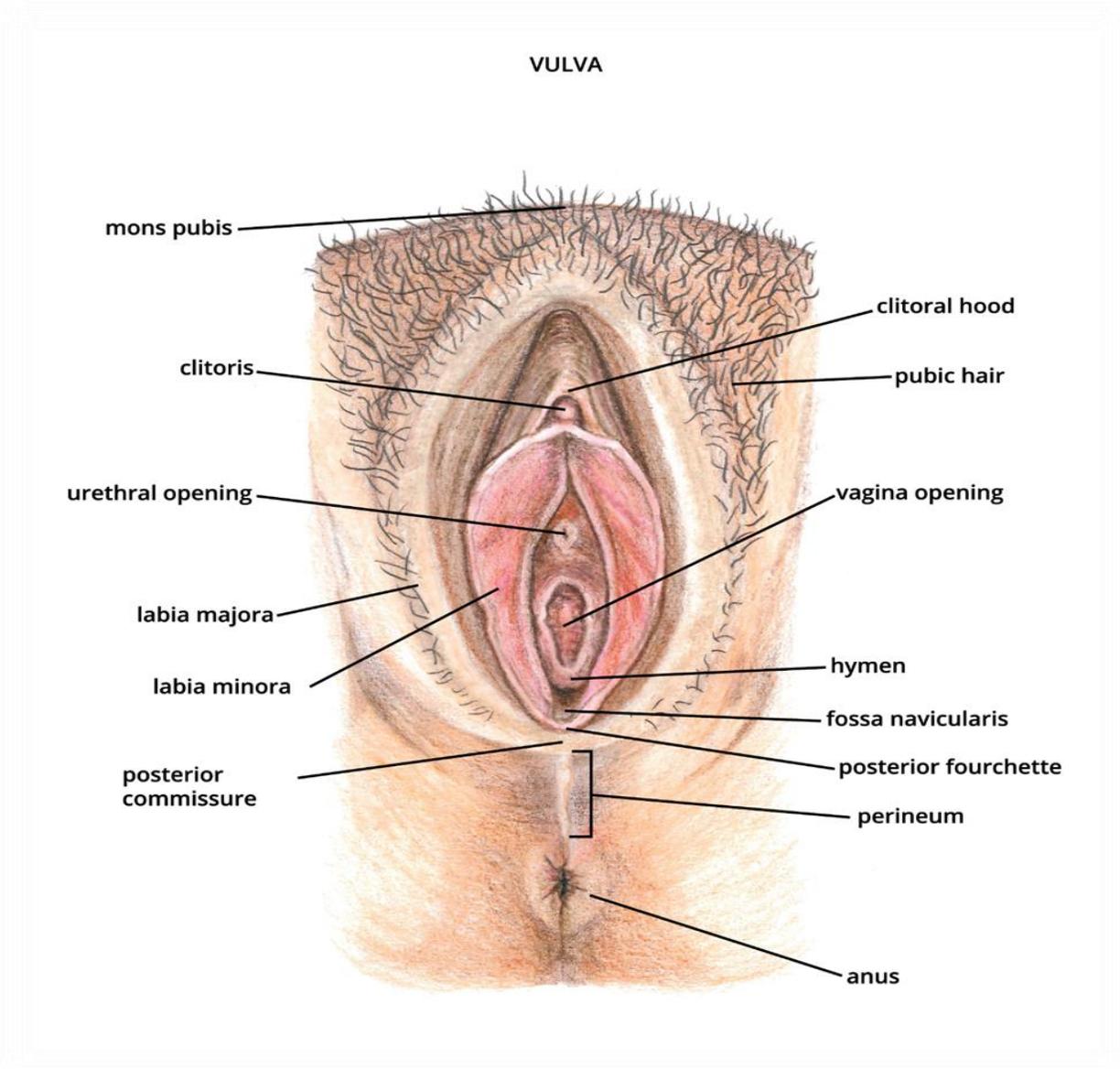
### Injuries

1. **Abrasion:** “Scraping type of injury” that is superficial damage to skin or mucous membrane ([James et al., 2014](#), p. 563).
2. **Bruise:** Bleeding beneath the surface of the skin; an accumulation of blood in the tissues outside of the blood vessels ([James et al., 2014](#), p. 567). Typically caused by an injury.
3. **Contusion:** A bruise (see above).
4. **Ecchymosis:** Blood leaks from a broken vessel into the surrounding tissue, leaving a flat discoloration under the skin. May be caused by trauma or medical conditions.
5. **Hematoma:** A collection of blood outside of the blood vessels. Often, an injury to the blood vessel causes blood to seep out of the vessel into the surrounding tissues. The collection of blood clots outside of the vessel and may appear swollen or raised.
6. **Incised wound:** “Injury produced by a sharp instrument and characterized by lack of surface abrasion and absence of bridging vessels, nerves, and smooth margins” ([James et al., 2014](#)).
7. **Laceration or tear:** Injury that occurs when the “skin is broken and disrupted by blunt force such as tearing, ripping, crushing, overstretching, pulling apart, over-bending, or shearing of tissue” ([Faugno et al., 2012](#), p. 1).
8. **Petechiae:** “Multiple hemorrhagic spots, pinpoint to pinhead in size” ([Faugno et al., 2012](#), p.1).
9. **Scar:** “Fibrous tissue that replaces normal tissue after the healing of a wound” ([U.S. Army Medical Department Center and School \[AMDCS\] \[DoD\], 2017](#)).
10. **Sharp force injury:** “Injury to soft tissue or bone caused by sharp-edged or pointed weapon or instrument” ([James et al., 2014](#)).

## Sexual Organ Terminology

Image One: Medical Forensic Terminology: Vulva

Female Genitalia (As defined by [Texas Penal Code §21.01](#))

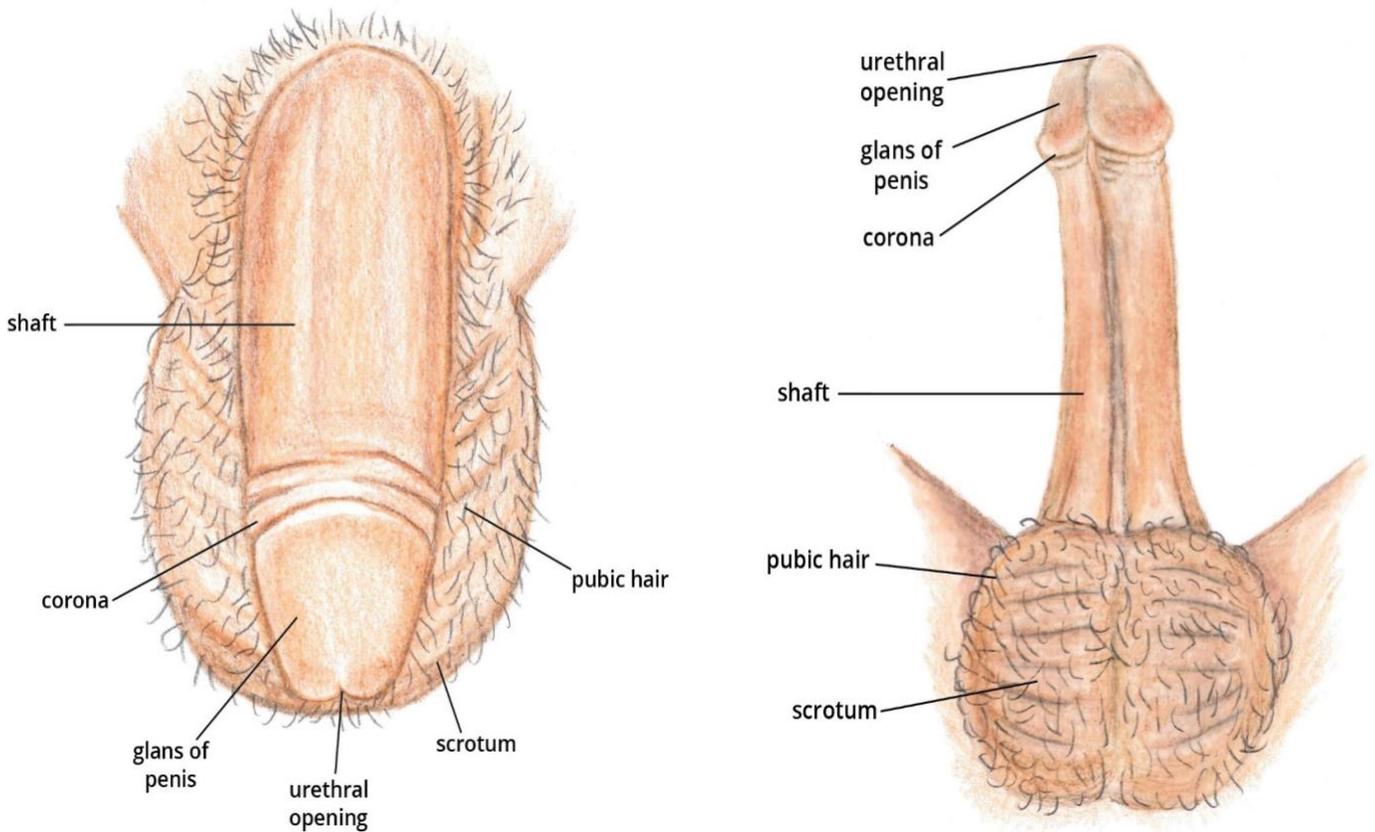


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1. **Cervical os:** “Opening in the cervix that leads to the endometrial cavity of the uterus” ([Faugno et al., 2012](#), p. 4).
2. **Cervix:** “Inferior portion of the uterus;” between the body of the uterus and the vagina (Miranda, 2017, para. 24).
3. **Clitoral hood:** “A fold of skin covering the clitoris” (Faugno et al., 2012, p. 4).
4. **Clitoris:** “A small, cylindrical erectile body at the anterior portion of the vulva, covered by the clitoral hood” (Faugno et al., 2012, p. 4).
5. **Fossa navicularis:** Depression between posterior margin of hymen and posterior fourchette.
6. **Hymen:** “A collar or semi-collar of tissue surrounding the vaginal orifice” (Faugno et al., 2012, p. 4).
7. **Labia majora:** “Two folds of skin on either side of the labia minora. This area usually is covered with hair that appears during puberty” (Faugno et al., 2012, p. 4).
8. **Labia minora:** “The longitudinal thin folds of non-keratinized skin medial to the labia majora. The labia minora are hairless but have many sensory nerve endings that engorge when stimulated” (Faugno et al., 2012, p. 4).
9. **Mons Pubis:** “Rounded fleshy prominence created by adipose tissue overlying the pubic symphysis bone” (Faugno et al., 2012, p. 4).
10. **Perineum:** “The external surface or base of the perineal body” between the vulva or scrotum and the anus (Faugno et al., 2012, p. 6).
11. **Posterior fornix:** Annular area in the vagina around the outside of the cervix (Harris, et al., 2009).
12. **Posterior fourchette:** “Area where labia minora meet posteriorly” (Faugno et al., 2012, p. 4).
13. **Urethral meatus:** “External opening of the urethral tube” (Faugno et al., 2012, p. 5).
14. **Vagina:** “Muscular canal extending from the cervix to the hymen (Faugno et al., 2012, p. 5).
15. **Vulva:** “An area of the female genitalia lying posterior to the mons pubis that includes the labia majora, labia minora, clitoris, vaginal vestibule, vaginal introitus, and Bartholin’s glands” (Faugno et al., 2018, p. 5).

**Image Two: Medical Forensic Terminology: Circumcised Penis – Male Sexual Organ**  
(As defined by [Texas Penal Code §21.01](#))

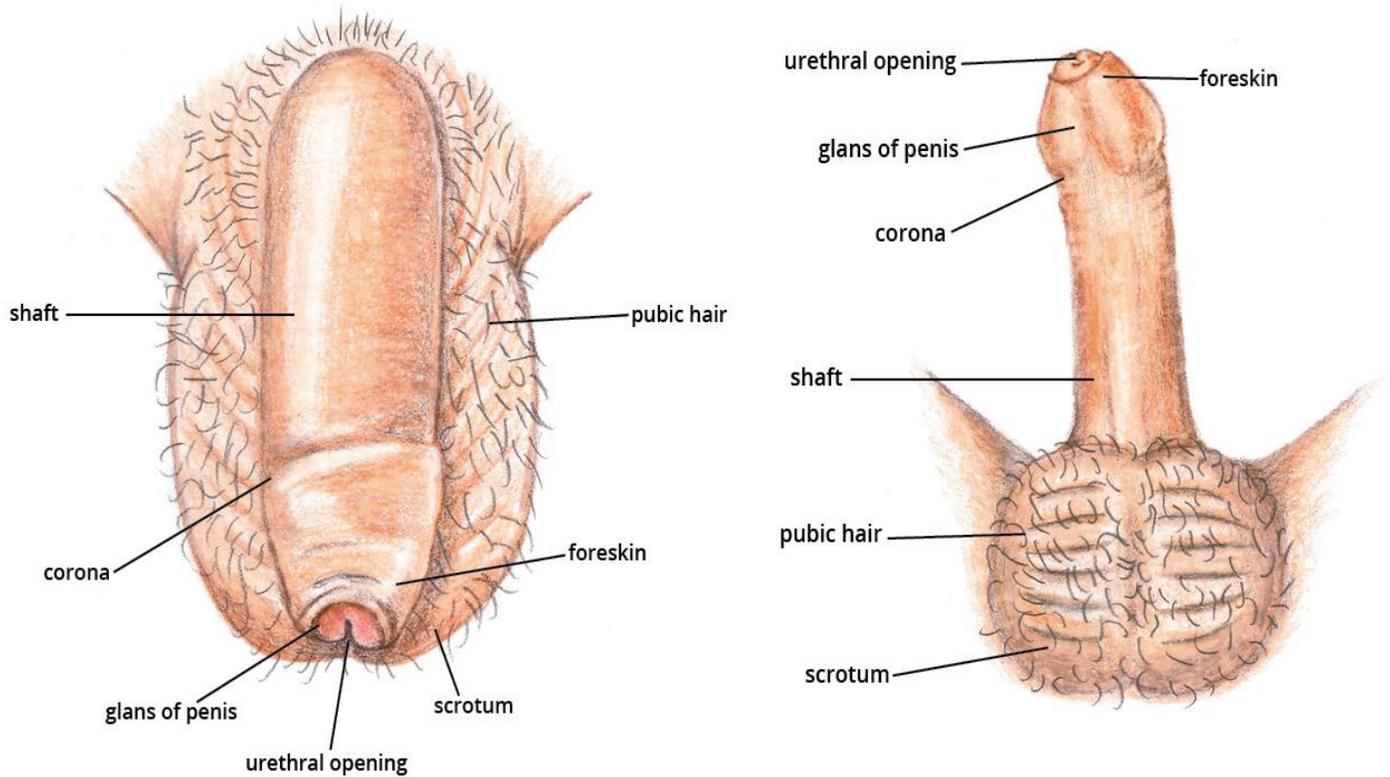
CIRCUMCISED PENIS



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**Image Three: Medical Forensic Terminology: Uncircumcised Penis**  
**Male Sexual Organ (As defined by [Texas Penal Code §21.01](#))**

UNCIRCUMCISED PENIS



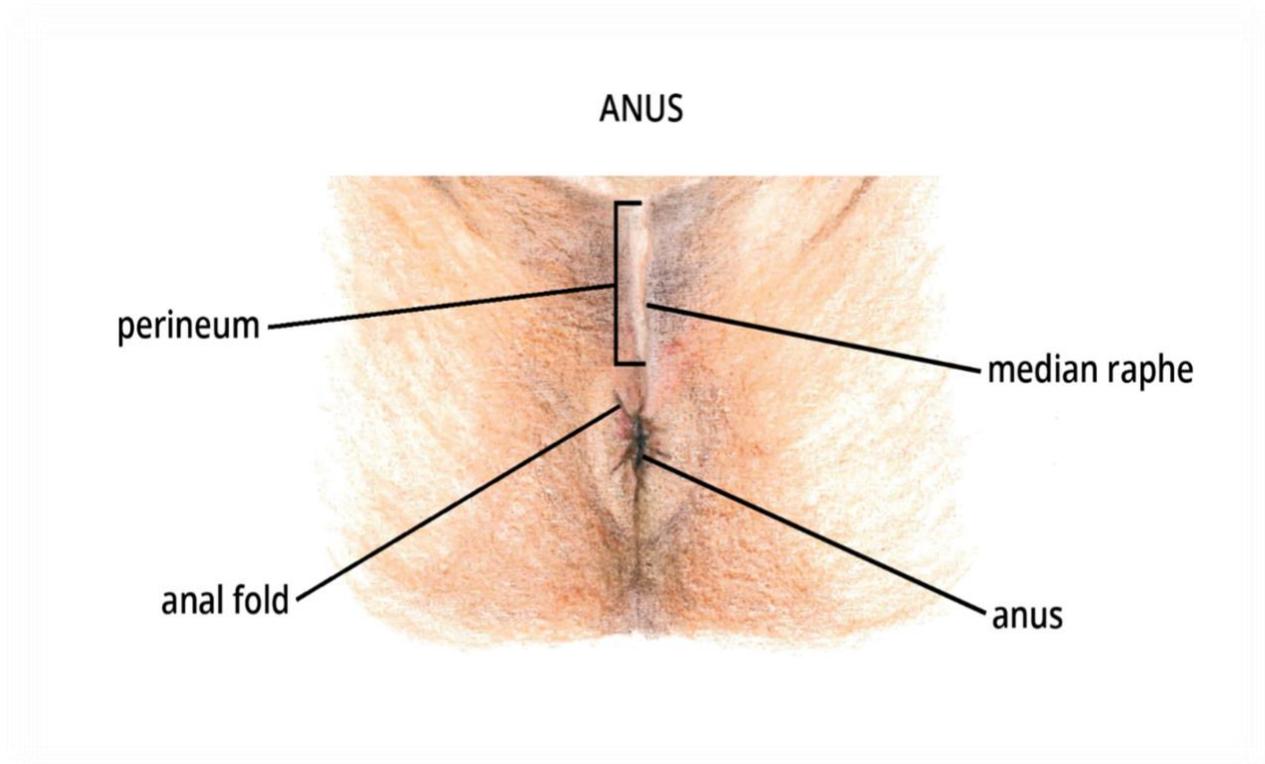
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1. **Corona:** “The rounded, prominent board of the glans on the distal portion of the penile shaft” ([Faugno et al., 2012](#), p. 3).
2. **Foreskin:** “Fold of skin that covers the glans of the penis,” also called prepuce ([Merriam-Webster, n.d.](#)).
3. **Glans (glans penis):** The cap-shaped expansion of corpus spongiosum at the distal end of the penis” ([Faugno et al., 2012](#), p. 3).

4. **Median raphe:** Visible hypo- or hyper-pigmented line or ridge of tissue typically midline.
5. **Penile shaft:** “Part of the penis between the glans and the body” ([Faugno et al., 2012](#), p. 3).
6. **Perineum:** “The external surface or base of the perineal body” between the vulva or scrotum and the anus ([Faugno et al., 2012](#), p. 6).
7. **Scrotum:** “Pouch containing the testicles and their accessory organs” ([Faugno et al., 2012](#), p. 3).
8. **Urethral meatus:** “External opening of the urethral tube” ([Faugno et al., 2012](#), p. 5).

## Anal/Rectal Medical Terminology

### Image Four: Medical Forensic Terminology: Anus



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**Anal canal:** “Terminal part of the large intestine, sensitive to pain, surrounded by sphincter muscles, and without lubricating glands” ([Faugno et al., 2018](#), p. 6).

1. **Anal fold:** “Anal folds form from the border of the anus” ([Harris et al., 2009](#)).
2. **Anus:** “Opening of anal canal” ([Faugno et al., 2012](#), p. 6).
3. **Anal verge:** “The distal end of the anal canal, overlies the subcutaneous tissue of the external anal sphincter and extends exteriorly to the margin of anal skin” ([Faugno et al., 2018](#), p. 6).
4. **Pectinate (or dentate) line:** “Saw-toothed line of demarcation between the lower portion of the anal verge and the pectin, a smooth zone of stratified squamous epithelium extending to the anal verge” ([Faugno et al., 2018](#), p. 6).
5. **Rectum:** “The distal portion of the large intestine, beginning anterior to the third sacral vertebra” ([Faugno et al., 2018](#), p. 6).

## MULTIDISCIPLINARY TEAM MEMBERS

### 1. NON-MILITARY TEAM MEMBERS

- a) **Advocate:** Volunteer or paid professional who understands sexual violence and victim dynamics, who is highly trained and trauma-informed and can address with expertise the short- and long-term needs of patients who report sexual assault. May serve military or civilian families. [Texas Government Code §420.003](#) and [Texas Code of Criminal Procedure §56A.351](#) describe presence of an advocate and mandatory training requirements. Also see sexual assault prevention and response victim advocate ([SAPR](#)). A support person is not the same as an advocate with specialized education.
- b) **Basic forensically trained medical professional:** For the purposes of this protocol, a basic forensically trained medical professional is defined as a licensed medical professional (registered nurse, nurse practitioner, physician’s assistant or physician) who has taken a minimum two hours or more of education on forensic evidence collection, but less than the didactic and clinical requirements obtained by specially trained medical forensic professionals, and who cares for patients who report sexual assault or when there is a concern that sexual assault occurred ([Texas Board of Nursing, 2013, Rule 216.3\(d\)\(1\)](#); [Texas Medical Board, 2018, Rule 166.2\(a\)\(4\)](#)). (See Texas [adult/adolescent](#) and [pediatric](#) protocols.)
- c) **Certified forensically trained medical professional:** A licensed registered nurse, nurse practitioner or physician who demonstrates competence through completion of extensive didactic education, as well as completion of clinical requirements or fellowship resulting in achieving certification. For the purposes of this protocol, certification includes:
  - i) American Board of Pediatricians, Child Abuse Pediatrics
  - ii) Attorney General of Texas currency of practice certifications [SANE Certification | Office of the Attorney General](#)
    - Certified Adult/Adolescent SANE (CA-SANE),
    - Certified Pediatric SANE (CP-SANE), or
    - Certified Adult/Adolescent and Certified Pediatric SANE (CA-CP SANE)
  - iii) International Association of Forensic Nurses (IAFN) certification examinations [Certification Opportunities—International Association of Forensic Nurses](#)
    - Sexual Assault Nurse Examiner—Adult/Adolescent (SANE-A)
    - Sexual Assault Nurse Examiner—Pediatric (SANE-P)
- d) **Chaplain:** Volunteer or paid professional who offers support to victims or suspects of sexual violence, and who understands that the patient guides any spiritual discussions.
- e) **Child Abuse Pediatrician (CAP):** Pediatricians “with special training, experience and skills in evaluating children who may be victims of some type of abuse or neglect” ([Healthy Children, 2015](#), para. 1).

- f) **Children’s Advocacy Center (CAC):** Located in 71 different locations throughout Texas, CACs coordinate the investigation, treatment, and prosecution of child abuse and neglect cases by utilizing multidisciplinary teams comprising professionals involved in child welfare, law enforcement, prosecution, medical and mental health, and are responsible for providing critical services to children and families impacted by abuse, exploitation, and neglect.
- g) **Forensic nursing:** “Forensic nursing science combines the concepts and principles of the traditional forensic sciences and those of nursing in the clinical investigation of trauma and the recovery of medical evidence” (Lynch & Duval, 2011).
- h) **Non-Military Person:** Anyone who is not an active-duty service member (ADSM).
- i) **SANE:** “A registered nurse specially trained to provide the forensic/medical examination and evaluation of sexual trauma while maximizing the collection of biological, trace and physical evidence and minimizing the patient’s emotional trauma” (Lynch & Duval, 2011, p. 16). SANEs have extensive training on laws, sexual violence, trauma-informed care, and evidence collection.
- j) **Specially trained medical forensic professional:** A licensed medical professional (registered nurse, nurse practitioner, physician’s assistant or physician) who has completed forensic education and clinical requirements that meets or exceeds the Department of Justice recommended standards outlined in [“A National Protocol for Sexual Assault Medical Forensic Examinations - Adults/Adolescents Second Edition,”](#) and/or the minimum standards required for certification as outlined by the Texas Attorney General in ["Initial SANE certification guide,"](#) which includes:

**i) Adult/adolescent patients**

- 40 hours of didactic education that meets the guidelines established by the protocols,
- 10 pelvic examinations supervised by a preceptor,
- 8 adult/adolescent sexual assault medical forensic examinations supervised by a preceptor, and
- 12 hours of courtroom observation.

**ii) Pediatric patients**

- 40 hours of didactic education that meets the guidelines established by the protocols,
- 10 pelvic examinations supervised by a preceptor,
- 20 well child examinations,
- 10 pediatric sexual assault medical forensic examinations supervised by a preceptor, at least six of which must be prepubescent children, and one adolescent.

## 2. MILITARY TEAM MEMBERS

- a) **Chaplain:** Provides “support to sexual assault patients (victim/suspect).” The chaplain “cannot take a report of sexual assault” ([U.S. Department of Defense \[DoD\], 2017](#), p. 114).
- b) **Sexual Assault Medical Forensic Examiner (SAMFE):** Specially trained healthcare provider who has completed specialized education and clinical preparation in the medical forensic care of the sexual assault patient. SAMFEs are trained to provide sexual assault patient care in accordance with Department of Justice training standards and have completed training through the DoD inter-Service SAMFE training program or other DoD approved organization and are credentialed by their Service or other DoD agency to perform SAFEs within the Military Healthcare System (MHS) ([DoD I 6310.09, Health Care Management for Patients Associated with a Sexual Assault, 2019](#) page 8).
- c) **Sexual Assault Prevention and Response Victim Advocate (SAPR VA):** “The SAPR VA shall provide non-clinical crisis intervention and ongoing support, in addition to referrals for adult sexual assault victims. Support will include providing information on available options and resources to victims” ([DoD, 2017](#), p. 3).
- d) **Sexual Assault Response Coordinator (SARC):** “The SARC shall serve as the single point of contact for coordinating appropriate and responsive care for sexual assault victims. SARCs shall coordinate sexual assault victim care and sexual assault response when a sexual assault is reported. The SARC shall supervise SAPR VAs but may be called on to perform victim advocacy duties.” ([DoD, 2017](#), p. 3).

## MILITARY MEDICAL FORENSIC ASSESSMENTS

1. **Acute sexual assault:** Sexual assault that occurred—or in instance of child or vulnerable patient, the last contact with suspect occurred—within seven days prior to medical examination ([U.S. Army Medical Department Center and School, 2017](#)).
  - a) All patients who were acutely sexually assaulted should be offered a medical forensic assessment.
  - b) Facilities that are not on a military installation follow state statutes regarding evidence collection up to 120 hours post-assault ([Texas Code of Criminal Procedure §56A.303](#)). Some jurisdictions, including military installations, collect evidence up to seven days after the sexual assault.
  - c) Evidence is typically collected when sexual assault occurred within seven days, or with examiner discretion if beyond seven days ([U.S. Army Medical Department Center and School, 2017](#)).
  - e) All children, regardless of when last contact occurred and type of contact described or suspected, should be assessed by an expert (sexual assault nurse examiner, specially trained medical forensic professional or child abuse pediatrician) as soon as possible.
  - f) Children assaulted more than 120 hours ago and who are not in danger of being re-assaulted may have a scheduled examination later. Check local jurisdiction for examination time frames.
2. **Medical assessment or examination:** An assessment completed by medical personnel who are not SANEs or SAMFEs which does not include forensic evidence collection.
3. **Medical forensic assessment or examination:** “The sexual assault medical forensic exam is an assessment of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients. The assessment includes gathering information from the patient for the medical forensic history; an examination; coordinating treatment of injuries, documentation of biological and physical findings, and collection of evidence from the patient; documentation of findings; information, treatment, and referrals for STIs, pregnancy, suicidal ideation, alcohol and substance abuse, and other non-acute medical concerns; and
4. Follow-up care as needed to provide additional healing, treatment, or collection of evidence” ([DoJ, 2013](#), p. 17).
5. **Non-acute sexual assault:** Sexual assault that occurred more than seven days ago. When a sexual assault occurred greater than 120 hours prior to sexual assault examination, clinical judgment should be used to determine if evidence collection is warranted. After medically stabilizing the patient, the examiner shall notify law enforcement recommending a sexual assault examination be completed ([Texas CCP §56A.251](#)). Injuries and possibly potential DNA evidence may be present that require documentation and treatment.

## MEDICAL AND FORENSIC ASSESSMENT TERMINOLOGY

1. **Commercial sexual activity:** Any sex act for which anything of value is given to or received by any person ([Foreign Relations and Intercourse 22 U.S.C.§7102\(4\)](#)).
2. **Drug-facilitated sexual assault (DFSA):** “All types of sexual assault when drugs, alcohol or other intoxicants are deliberately given to the victim by the perpetrator” ([Faugno et al., 2012](#), p. 1). Suspected DFSA may require additional drug and/or alcohol testing. Samples may need to be sent to crime laboratory for further testing, which is not typically available in most health care facilities. Clinical judgment should be used to determine need to collect DFSA evidence. Consult local law enforcement or crime lab. ([Texas Penal Code §22.021](#))
3. **Sex trafficking:** “The recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act” is induced by force, fraud or coercion, or in which the person induced to perform such an act has not attained 18 years of age ([Foreign Relations and Intercourse 22 U.S.C. §7102](#); [Texas Penal Code, 20A](#)).

## SEXUAL ASSAULT RESPONSE TEAMS (SART)

### NON-MILITARY PATIENTS

**Non-military patients are defined as all patients presenting to any facility (civilian or military installation) who are not active-duty service members (ADSM).**

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

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

A sexual assault "response team" is a "multidisciplinary team established to strengthen the collaborative response and enhance health and judicial outcomes for sexual assault survivors" ([Texas Local Government Code §351.251](#)). Commissioners' courts of each county shall establish sexual assault response teams ([Texas Local Government Code §351.251](#)).

All patients (adults, adolescents, and children) have the right to choose who will be present in the room with them during the sexual assault examination. Examiners should consider patients' physical and psychological safety and ability to be forthcoming about their experiences if others (including parents or caregivers) are present in the room. Use best clinical judgment when considering who is present during the medical forensic history and examination. Ideally, those present in the exam room, in addition to the patient, should be limited to a support person of the patient's choice (family, friend, etc.), community-based advocate from the local sexual assault program as defined by [Texas Government Code §420.003](#), who has completed a sexual assault training program described by [§420.011\(b\)](#) and the sexual assault nurse examiner or the medical doctor or nurse trained in sexual assault forensic collection. However, the patient's support person may be asked to testify in legal proceedings.

It is important that all SART members are versed in the community sexual assault response protocols to provide a collaborative approach. Law enforcement officers and law enforcement victim advocates should not be present during the medical forensic assessment. The medical forensic assessment is for medical diagnosis and treatment purposes. The presence of law enforcement personnel may alter the purpose of that assessment. It may also inhibit the patients' comfort to communicate private health-impacting information, which may alter the outcome of the patient assessment. "Law enforcement representatives should not be present during the exam" ([DoJ, 2013](#), p. 41).

## **MILITARY PATIENTS**

Active-duty service members (ADSM) patients, their dependents, veterans, and active reservists who report sexual assault also have a team of support in the military community, including but not limited to:

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

## LEGAL REFERENCES

This section covers important legal definitions in federal and state laws. **Please refer to specific federal and state statutes to ensure currency and accuracy:**

- [Federal Statutes via Library of Congress](#)
- [Texas Constitution and Statutes](#)
- [Texas Legislature Online](#)

### Obtaining a Patient Report

It is recommended that health care professionals accurately and thoroughly document the verbatim patient history. It is imperative to preserve all evidence, including potentially exculpatory, mitigating, and/or impeachment evidence. The duty to turn over all evidence falls on the prosecution and is only triggered by the initiation of criminal charges. There is no general right to access to third party medical records and generally private health records are protected by [HIPAA](#) (45 CFR 164.512(f)(1)(ii)(A)-(B)). Check with the facility compliance or risk management offices.

Health care professionals have an obligation to collaborate with attorneys to ensure all records, including laboratory or radiological images, and photographs or images are available for legal proceedings.

## UNITED STATES CODE

### 1. Federal Statutes and Decisions

- a) Federal rape and sexual assault Code of Military Justice, ([United States Code](#) [U.S.C.] §920.120 and §920.120b defines “sexual assault and rape.”)
- b) Emergency Medical Treatment and Labor Act (EMTALA) was enacted by Congress in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 ([42 U.S.C. §1395dd](#)) and requires anyone presenting to an emergency department be medically stabilized and treated regardless of their insurance status or ability to pay.
- c) *Crawford v. Washington* [541 U.S. 36](#) (2004). The Sixth Amendment’s Confrontation Clause provides that, “[i]n all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witnesses against him” (*Crawford v. Washington*, March 8, 2004).

\*In some cases, *Crawford v. Washington* may not prohibit the introduction of medical records by an appropriate medical professional, including statements the patient made for medical purposes during an examination, regardless of whether the patient testifies at trial. The judge makes the final determination of what testimony is allowed.

- d) *Brady v. Maryland* [373 U.S. 83](#) (1963). The Constitutional right to due process requires that the prosecution disclose to the defense any favorable evidence “material either to guilt or to punishment” (p. 83).
- e) 20 U.S.C.A. §1681 amended Title IX provides information about rights of students in an educational institution that receives federal funding (Pre-K through university, including private institutions) ([20 U.S.C.A. §1681](#)).

## TEXAS STATUTES

### 1. Texas Statutes and Decision

#### a) Child or minor:

- Texas Penal Code §21.02 and §22.011 define child as “younger than 17 years of age” ([Texas Penal Code §21.02 and §22.011](#)).
- Texas Family Code §101.003 defines child or minor as a “person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.”
- Texas Family Code §101.003 defines child or minor as a “person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.”

#### b) Elderly individual: “Person 65 years of age or older” ([Texas Penal Code §22.04](#)).

#### c) Consent to treatment of a child:

- Child consent: A child can “consent to the diagnosis and treatment of an infectious, contagious or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, including all diseases within the scope of Section 81.041, Health and Safety Code” ([Texas Family Code §32.003](#)).
- Consent by non-parent: “The following persons may consent to medical, dental, psychological and surgical treatment of a child when the person having the right to consent as otherwise provided by law cannot be contacted and that person has not given actual notice to the contrary: (6) a court; (7) an adult responsible for child under the jurisdiction of a juvenile court; or (8) a peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment ([Texas Family Code §32.001](#)).
- Examination without consent of abuse or neglect of child: “A physician, dentist, or psychologist may examine the child without the consent of the child, the child’s parents, or other person authorized to consent: (b) An examination under this section may include X-rays, blood tests, photographs, and penetration of tissue necessary to accomplish those tests” ([Texas Family Code §32.005](#)).

## MANDATORY REPORTING

Texas law requires anyone who thinks a [child](#), or person 65 years or older, or an adult with disabilities is being abused, neglected or exploited must report it to DFPS ([Texas Family Code §261.101](#)). This duty ***may not be delegated*** to someone else.

A person who reports abuse in good faith is immune from civil or criminal liability. DFPS keeps the name of the person making the report confidential. Anyone who does not report suspected abuse can be held liable for a misdemeanor or felony ([Texas Family Code §261.106](#)).

Individuals may use the [iWatchTexas](#) community reporting system to report suspicious activities.

[DFPS](#) has a central place to report:

1. Child abuse and neglect.
2. Abuse, neglect, self-neglect and exploitation of the elderly or adults with disabilities living at home.
3. Abuse of children in child-care facilities or treatment centers.
4. Abuse of adults and children who live in state facilities or are being helped by programs for people with mental illness or intellectual disabilities ([Texas Human Resources Code, §48.002](#)). These reports are investigated by [HHSC Provider Investigations](#), not DFPS.

### Report Abuse:

1. By Phone: 1-800-252-5400
2. Online: [Texas Abuse Hotline](#)

Call the DFPS Abuse Hotline toll-free 24 hours a day, 7 days a week, nationwide, or report with their secure website and get a response within 24 hours.

For more information see the DFPS flyer “[Reporting Abuse, Neglect and Exploitation](#).”

## RECOMMENDED EQUIPMENT AND SPACE

It is recommended that the medical forensic sexual assault assessment occur in a quiet, safe, and private room where the entire patient assessment will not be interrupted by outside environment. The medical forensic examination is a health care assessment and should be completed in a space that is physically and psychologically safe for the patient.

Recommended equipment and space:

- Digital camera or image capture system:
  - Facilities must have policies in place to guide collection and appropriate secure storage of digital images, as well as policies for release or destroying of said images.
  - **The use of personal photography equipment or telephones for taking patient photographs is not recommended.** Chain of custody and confidentiality of photographs cannot be maintained while using personal photography equipment.
- Colposcope or other magnification system, especially for the examination of children.
- Medical professionals should have prior training on correct use of all equipment before use.
- Attorney General of Texas approved SAEK, which may include medical forensic documentation forms. In the event of a reduction in the availability of SAEKs, see Appendix D.
- Other evidence collection and preservation items:
  - Paper bags,
  - Evidence tape and
  - Marking pens.
  - Personal protective equipment including numerous changes of gloves. If facility does not have an area for drying, consider notifying law enforcement agency who has jurisdiction to collect evidence immediately.
- Evidence will be sealed as soon as possible upon completion of examination.
- Facilities must have locked and secured, temporary storage space for evidence that cannot be released immediately to law enforcement.
- Evidence must be tracked in the statewide sexual assault evidence tracking system (Track-Kit) ([Texas Government Code §420.034](#)). The medical facility must enter the collection details into Track-Kit no later than two business days after the date the examination is performed. Patients will be able to track the location and status of the evidence.

## PATIENT-CENTERED CARE

- **Sexual assault is a traumatic event, and no assault experience is the same. Health care providers can reduce the risk of further trauma by providing person-centered, trauma-informed care that recognizes the patient has recently experienced neurobiological trauma.**
- **Patients have the right to have a sexual assault medical forensic assessment.** Pre-authorization by law enforcement is not required. Law enforcement must document, in the manner required by the OAG, their requests or denials of sexual assault examinations for all reported sexual assaults. See the [Law Enforcement Request for Sexual Assault Exam \(Texas Code of Criminal Procedure §56A.251; §56A.303\)](#)
- **Trauma-informed care** takes the vulnerabilities and lived experiences of the patient into consideration, while acknowledging the impact of trauma ([OVC, n.d.](#)).
- **Patients have the right to decline any part of the assessment, even after they have signed informed consent and authorization forms.**
- A patient “who is a victim of a sexual assault has the right to have a sexual assault advocate present during the forensic medical examination (Rights of Crime Victims – Presence of an advocate [Texas Code of Criminal Procedure 56A.351](#)).
- Use trauma-informed practices when discussing gender at birth and self-identifying gender preference.
- There is no “normal” behavior following sexual assault. Exposure to trauma causes neurobiological changes that may impact behavior.
- Behaviors that may be observed include:
  - Flat or blunted affect,
  - Agitation, fidgeting or poor eye contact, especially while speaking of the assault,
  - Difficulty staying awake,
  - Difficulty remembering details about the traumatic event, especially chronology of events and peripheral details,
  - Focus on sensory details of the assault such as perpetrator features (e.g., tattoo, facial hair, mole, etc.), colors, smells, or physical sensation,
  - Difficulty answering questions or making decisions, and
  - Emotional lability.
- Trauma impacts cognitive function. To assist patients:
  - Inform everyone about what will occur before it occurs,

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

## TELEHEALTH

- Telehealth nursing “encompasses independent and collaborative practice during encounters that use telehealth technology in a virtual environment.” “RNs use evidence-based information across a variety of health care settings to achieve and ensure patient safety and quality of care while improving patient outcomes” (American Academy of Ambulatory Care Nursing ([AAACN](#)), 2018, p. 10).
- The option of telehealth uses innovative, secure and confidential video technology to connect on-site clinicians with certified Sexual Assault Nurse Examiners (SANEs) to reduce barriers for survivors in accessing trauma-informed care.
- Patients utilizing telehealth services have the same rights as patients who utilize face-to-face sexual assault services and have the right to have an advocate present.
- Telehealth also offers the capability to support patients who experienced an act of sexual assault with 24/7 access to experienced forensic nurses.
- TeleSANEs support on-site emergency department clinicians in completing a medical forensic examination. This support may include everything from proper documentation to evidence collection and is designed to provide patient-centered care as quickly as possible for survivors. The forensic nurse experts remain visible to the patient during the entirety of the exam, are available for the patient and remote provider to ask questions during the exam and are an optional resource for patients seeking care. In partnership with the Texas A&M Health Center of Excellence in Forensic Nursing, the Texas Teleforensic Remote Assistance Center ([Tex-TRAC](#)) is currently utilized by four hospitals in rural Texas. Tex-TRAC provides 24-hour coverage by expert TeleSANEs to ensure patients who have experienced sexual assault and other forms of intentional violence have the option to receive specialized care in their own community.
- The Tex-TRAC Hotline offers consultation with a forensic nurse expert to support all health care providers and law enforcement officers offering the following services:
  - Toll-free hotline 1-833-TEX-TRAC (1-833-839-8722)
  - 24 hours a day, 7 days a week, 365 days per year availability,
  - Consultation with clinicians seeking guidance in treating patients surviving sexual assault,
  - Referral to nearest facility with SANE availability, Rape Crisis Center or Child Advocacy Center.

## PRESENCE OF AN ADVOCATE

- “Advocate means a person who provides advocacy services as an employee or volunteer of a sexual assault program” ([Texas Government Code §420.003](#)).
- Per [Texas Code of Criminal Procedure §56A.351](#), **health care professionals must offer access to a sexual assault advocate during the medical forensic examination** if that service is available.
- Sexual assault advocates must be trained by a certified sexual assault program AND must be an employee or volunteer of a sexual assault program as defined by [Texas Government Code](#). Advocates for child patients may be provided by local CACs and/or in coordination with rape crisis centers, according to local protocols.
- Regardless of age, it is the patient’s right and choice to have the community advocate present during any or all parts of the medical forensic assessment process.
- The presence of an advocate is not only a right afforded to the patient by [Texas Code of Criminal Procedures §56A.351](#) but is an integral part of the medical forensic assessment process. **The advocate is distinct and separate from hospital and law enforcement personnel.**
- Sexual assault advocates from sexual assault programs are community-based and differ from the criminal justice system–based victim services or liaisons. (See [Texas Local Government Code §351.251](#))
- Advocates provide non-judgmental support to the patient and explain response options and other support resources available to the patient. Advocates might be the only consistent support throughout the entire healing and legal processes.
- It is vital for medical professionals to understand community SART protocols to accurately describe the role of the advocate, which is to provide crisis intervention, support services and information regarding the rights of crime victims for future counseling ([Texas Code of Criminal Procedure §56A.351](#)).
- See [advocate roles](#).

## USE OF INTERPRETERS

- **Patients have the right to information in the language and format of their choosing. As with any other patient, family or support persons should not be used as interpreters.**
- If the provider is not fluent in the patient's preferred language, the provider shall utilize an interpreter, following facility protocols.
- The availability of interpreters for patients who are non-English speakers, vision or hearing impaired is key to all aspects of the medical assessment and forensic evidence collection process and required by federal law under Title III of the [Americans with Disabilities Act \(ADA\)](#).
- Verbal and written consent and information is required for all patients, including those with limited English proficiency.
- Verbal and written consent from patients who have limited English proficiency may require the use of foreign language interpreters—for verbal consent, for written consent to have the translators provide a sight translation of written documents, and for the translation of any forms into other languages.
- Most health care facilities have access to interpreters; however, the following resources may be of assistance to ensure patients fully understand every aspect of their health care and are able to appropriately provide an informed consent:
  - <https://www.languageline.com/interpreting>
  - <https://interpretersunlimited.com/texas-interpreter-translator/>
  - <http://lingualinx.com/telephone-interpreting-services/>
  - <http://interpret.voiance.com/language-services/>
  - <https://universallanguageservice.com/services/over-the-phone-interpretation/>

## **CULTURALLY AWARE CARE**

- When performing a medical forensic sexual assault assessment and evidence collection, the health care professional shall provide trauma-informed, person-centered care that is culturally aware and compassionate, and is accepting and respectful of cultural differences.
- All patients should be seen, heard and respected.
- Care will be guided by and sensitive to the patient's culture, customs, beliefs, religion, and individual needs, recognizing that all patients are individuals and may identify or belong to ethnic groups or have belief systems that are different from the health care provider's own and may not be readily apparent.
- Patients will be provided with a qualified, trained, medical interpreter in their preferred language. Certified interpreters shall be utilized as directed by facility policy.
- Any patient may decline any part or all the medical forensic assessment for any reason; in addition, the exam may be adapted to meet the preferences of the patient as needed. It is important to educate the patient on the possible outcomes of accepting or declining any portion of the examination or health care process.

## OPTIONS FOR ADULT SEXUAL ASSAULT TREATMENT

### ACTIVE-DUTY SERVICE MEMBERS AND ADULT MILITARY DEPENDENTS

- Department of Defense policy outlines services for military members who have been sexually assaulted. DoD Directive 6495.01 establishes the Sexual Assault Prevention and Response (SAPR) program.
- DoD Instruction 6495.02 details SAPR program implementation including comprehensive procedures in responding to the crime of sexual assault within the DoD.
- [DoD SAPR policy](#)
- Military members who are supported via the DoD SAPR program include individuals 18 years and older who are affiliated with the military (active duty, reserves, guard on Title 10 status, Army and Air Force federal civilian employees and family members of a service member).
- Individuals 18 years and older who are affiliated with the military (active duty, reserves, guard, DoD civilians or dependents) have reporting options like non-military patients.
- **The two reporting choices include “unrestricted” and “restricted” (confidential). Filing an official unrestricted or restricted report must be done through a Sexual Assault Response Coordinator (SARC).** This will ensure that both options are explained to those who report sexual assault, and they can then make an informed decision regarding said options.
- **Unrestricted report:**
  - Includes reporting the incident to law enforcement and to the patient’s chain of command (supervisors or commanders),
  - The sexual assault will be investigated by the law enforcement agency with jurisdiction (may be either civilian or military law enforcement), and
  - Patient has access to all support services, including:
    - Health care treatment,
    - Assignment of a SARC and a Sexual Assault Prevention and Response Victim Advocate (SAPR VA).
    - The SARC shall be notified, respond, or direct a SAPR VA to respond, offer the victim health care treatment and a Sexual Assault Forensic Exam (SAFE), and inform the victim of available resources.
- **Restricted report:**
  - DOES NOT trigger an investigation.
  - The command is notified that a sexual assault occurred but is not given the survivor’s name or other personally identifying information.
  - Restricted reporting allows service members and military dependents who are adult sexual assault survivors to confidentially disclose the assault to specified individuals (SARC, SAPR VA, Chaplain, Special Victim Counsel [SVC] or health care personnel) and receive health care treatment, a sexual assault forensic exam and the assignment of a victim advocate.
  - **Restricted reporting is available only to service members and adult military dependents.**
  - **If a law enforcement officer or the survivor’s chain of command becomes aware of a restricted report, an investigation is required.**

It is critical that military-affiliated survivors receive information about their reporting options from a person knowledgeable of the DoD policy that defines reporting choices.

- Assistance for military members who need more information about their options can be accessed by the DoD Safe Helpline (877-995-5247), [DoD SAPR website](#) (or local military sexual assault hotline). The DoD Safe Helpline provides resources, information, and referral options to those who report sexual assault or harassment without compromising the restricted report option.
- Payment for forensic evidence collection in either official unrestricted or restricted reports should be billed to TRICARE (via TRICARE Policy Manual 6010.54-M, Chap 7, Section 26.1, Oct 28, 2009) or arranged with the military law enforcement agency handling the investigation.
- **Mandatory Reporting:** Texas law mandates anyone who believes a child, or person 65 years or older or an adult with disabilities is being abused, neglected, or exploited must report it to DFPS. (See [Mandatory Reporting](#) section of this protocol.)
- Individuals affiliated with the military may choose not to notify any military agency or make an official report through military channels. For these incidences, the individual has access to the same civilian reporting choices as defined in the following section.
- Follow-up care should be recommended, and the restricted reporting option is honored throughout medical care post–sexual assault.

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

- **Adult survivors of sexual assault have the option of reporting or not reporting the offense to law enforcement. In Texas, an adult is anyone who is 18 years old or older. (See [Mandatory Reporting](#) section for exceptions.)**
- **[Children](#) fall under mandatory reporting and are therefore *not* eligible to have a [non-report sexual assault examination](#). Child safety must be taken into consideration when making reporting (law enforcement and child protective services) decisions.**

	<u>Reporting</u>	<u>Non-Reporting</u>
<b>Eligibility</b>	Mandated for children.	Available to adults only.
	Optional for adults.	
<b>Law enforcement notification</b>	Yes	No
<b>Access to services:</b> (i.e., healthcare treatment, forensic evidence collection, access to advocate, ability to track evidence)	Yes	Yes
<b>Evidence Processing</b>	Yes <i>Evidence is processed (tested) by crime laboratory.</i>	No <i>Evidence is stored for up to five years, but not processed (tested) unless patient reports to law enforcement.</i>

- **Reporting:**

- Includes reporting the incident to law enforcement in the jurisdiction in which the sexual assault occurred, and
- Patient has access to all support services, including:
  - Health care treatment,
  - Sexual assault forensic evidence collection,
  - Access to a sexual assault advocate, and
  - Ability to track sexual assault evidence through various stages of criminal justice process ([Texas Government Code §420.034](#)).
- For exams conducted after August 31, 2019, the medical provider or facility may be eligible for reimbursement of the forensic component through [Crime Victims' Compensation](#).
- “If a sexual assault is reported to a law enforcement agency within 120 hours after the assault, the law enforcement agency, with the consent of the victim of the reported assault, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, *shall* request a forensic medical examination of the victim” ([Texas Code of Criminal Procedure, Art. 56A.251](#)).

- **Non-reporting:**
  - **DOES NOT** include reporting the incident to law enforcement, and
  - The sexual assault evidence will **not** be processed unless the patient (up to five years after the incident, or as mandated) reports the crime to law enforcement ([Texas Code of Criminal Procedure §56A.306](#)).
    - Patient has access to all support services, including:
      - Health care treatment,
      - Sexual assault forensic evidence collection,
      - Access to a sexual assault advocate, and
      - Ability to track sexual assault evidence through various stages of criminal justice process ([Texas Government Code §420.034](#)).
  - If the assault is not reported to law enforcement, responsibility for payment of the medical component of the assessment and examination may rest on the patients, and they are eligible for reimbursement through Crime Victims' Compensation. The cost of the forensic component, including evidence collection, is billed to Department of Public Service (DPS) for exams conducted before September 1, 2019. For exams conducted after August 31, 2019, the medical provider or facility may be eligible for reimbursement of the forensic component through Crime Victims' Compensation. [Emergency medical care](#) compensation may be available to cover the costs for the emergency medical care a person who experienced sexual assault may incur . In accordance with §56A.306 of the Texas Code of Criminal Procedure, the Texas DPS Crime Laboratory Service will store sexual assault evidence in cases where there is no law enforcement notification.
  - In accordance with §56A.306 of the Texas Code of Criminal Procedure, the Texas DPS Crime Laboratory Service will store sexual assault evidence in cases where there is no law enforcement notification.
- **Instructions for submitting a non-report sexual assault evidence collection kit are available at [dps.texas.gov](https://dps.texas.gov), with details outlined in [Texas Code of Criminal Procedure §56A.306](#).**
  - “The Department of Public Safety only stores evidence in non-reported sexual assault instances. Evidence is not opened and will remain in storage for a period defined by the statute.
  - Evidence is stored for a maximum of five years. Following the fifth-year anniversary of the date of collection, written notification to the survivor is provided and a response period of three months is granted before the evidence is destroyed.

- Prior to the five-year deadline, a survivor may choose to either:
  - Release the evidence to the applicable law enforcement agency (based on where the offense occurred); or
  - Release the evidence for destruction if choosing not to pursue investigation of the offense” ([DPS, 2021](#), p. 172).
- Package all collected evidence in a box that is completely sealed with heavy tape. The box must be able to withstand standard shipping without undue damage.
- Initial and date the seal such that a portion of the initials and date are on both the box and the tape.
- Contents of the box may include:
  - A sealed sexual assault evidence collection kit;
  - A survivor reference DNA sample in the form of a dried buccal swab;
- The sample may be in its own packaging or may be enclosed in the sexual assault evidence collection kit.
- Sealed paper bags containing survivor’s clothing. Submitted clothing should be limited to the survivor’s underwear unless there is a compelling reason to believe that any other items contain biological evidence from the suspect.
- The box may not include blood, urine or any other liquid samples” ([DPS, 2021](#), p. 173).
- Do not include the patient’s name on the external non-report SAEK. “Ensure the survivor’s unique identifier is clearly marked on all evidence packages, forms, and submitted invoices and supporting documentation” ([DPS, 2021](#), p. 173). (See [chain of custody section](#) for more on unique IDs).
- Provide patients with information on how to contact law enforcement agency who has jurisdiction, if they decide to take further action. Facilities may provide the patient with the unique identifier, as their policies dictate.
- In a sealed envelope that is secured to the outside of the outermost container, place the completed Non-Reported Sexual Assault Evidence Laboratory Submission form (LAB-205).
- Once evidence is collected and appropriately sealed, it is shipped overnight per [DPS protocol](#).

- Shipping preferences: No shipping on Fridays or holidays
- Shipping address for evidence:  
Texas DPS Bio-Warehouse  
12230 West Rd., Building C  
Houston, TX 77065

- Consult the Texas Attorney General's website for [reimbursement information](#) and [guidelines](#).
- Email for invoice questions: [apinvoices@dps.texas.gov](mailto:apinvoices@dps.texas.gov)
- Follow the above process for military restricted report sexual assault kit process.
- [Texas Family Code §261.101](#) requires that any person, including medical and social services organizations, who suspect child or dependent adult abuse must report it to either [Texas Department of Family and Protective Services](#) or to local or state law enforcement.

## ADULT/ADOLESCENT PROTOCOL

### INTRODUCTION

- **Adolescent:** “Adolescents” are defined in this protocol as children under 18 years of age, who have reached puberty. “While the physical developmental level of these patients” is similar to that of an adult and “must be taken into account when performing the exam, these patients should otherwise be treated as adolescents rather than children” ([DoJ, 2013](#), p. 14).
- **Adult:** “Person who is not a child” ([Texas Family Code §101.003](#)), adult who is older than 18 years of age.
- Adult patients (18–64 years of age) who do not have a disability may choose to be treated by [basic forensically trained medical professionals](#) or be treated in SAFE-ready facilities ([Texas Health and Safety Code §323.0015](#)).
- Adult patients who experience sexual assault have the right to receive a medical forensic assessment at the hospital where they present. The examination includes evidence collection, if doing so within 120 hours of the assault.
- [Adolescent patients](#) should be seen by [specially trained medical forensic professionals](#) (such as SAMFEs, SANEs, or [child abuse pediatricians](#)).
- A facility is defined as SAFE-ready by [Texas Health and Safety Code §323.001](#) “if the facility notifies the department (Department of State Health Services) that the facility employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of sexual assault forensic examiners to provide consultation to a licensed nurse or physician when conducting a sexual assault medical forensic examination.”
- Texas Department of State Health Services (2018) defines a SAFE-ready facility as one with certified SANEs “or a physician with specialized training to conduct a medical forensic examination of a sexual assault survivor” ([Texas Department of State Health Services, 2018](#)).
- Consider offering an assessment regardless of:
  - When the assault occurred (or was thought to have occurred), and
  - What the patient stated occurred. Sometimes patients may only disclose a small portion of what occurred. Highly trained SANEs, specially trained medical forensic professionals have the expertise and training to establish trust with patients who have experienced trauma and ask questions appropriate to obtaining a history.
- Complete medical forensic assessment examinations can elicit:
  - Additional medical findings,

- Patient's history of new or additional information,
- Information regarding sexually transmitted diseases, or
- The presence of other victims.
- Refer to the [National protocol for sexual assault medical forensic examinations: Adult/adolescents](#), 2<sup>nd</sup> ed. (DoJ, 2013).
- Refer to the [National best practices for sexual assault kits: A multidisciplinary approach](#) (2017).
- Refer to [The biological evidence preservation handbook: Best practices for evidence handlers](#) (2013).

## ADULT/ADOLESCENT MEDICAL FORENSIC ASSESSMENT

### Intake Medical Personnel

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

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

1. Provide clear information about wait times.
2. Elicit information as privately as possible, regarding:
  - a) Safety (Is the patient physically and psychologically safe? Is the suspected perpetrator present? Speaking with patient alone is important to obtain accurate information),
  - b) Pain, and
  - c) Bleeding.
3. Instruct patient to not use restroom, wash, change clothes, smoke, vape, eat, or drink until evaluated by the forensic health care professional. Educate patient about benefits and risks of actions listed above. If patient needs to use restroom, collect the urine and request that they do not wipe genitalia until after evidence has been collected.
4. Consider collecting urine if drug/substance-facilitated sexual assault ([DFSA](#)) is suspected. Maintain chain of custody of specimens.
5. Contact a Child Advocacy Center ([CAC](#)) or rape crisis center, depending on community protocols, for a sexual assault advocate to provide hospital accompaniment. Advise patient and caregivers (when applicable) of advocate's expected arrival time and role as support for the patient and family. Contact a Commercially Sexually Exploited Youth (CSEY) advocate, depending on community protocols. A [comprehensive network](#) of experts to provide critical wrap-around care and support for commercially exploited children is available.
6. Contact forensic health care professional and notify of patient's arrival. Advise patient and support persons (when applicable) of expected wait times.

## Medical Forensic Examination

1. **Informed consent** (see [Consent](#))
  - a) Introduce self to patient and describe plan of care, role of medical forensic health care professional and expected length of time to complete patient assessment. Invite patient to ask questions.
  - b) All patients, regardless of age, can assent or decline any portion or all the medical forensic assessment. Reinforce patients have rights. Examiners should be flexible and alter process and approach as patient assents or declines throughout the examination. If the patient continues to decline, the patient may return at another time for medical forensic assessment. If patient returns within 120 hours (some jurisdictions may collect evidence more than 120 hours) since the assault, a SAEK may be collected. Inform patient that this may result in additional medical costs.
2. Determine if patient (18 years old and older) wishes to report to law enforcement (see [reporting options](#) on p. 31).
3. **Medical assessment.** May take place before or concurrently with forensic sexual assault assessment, depending on facility policy.
  - a) **Obtain an accurate history of the incident(s). Health care professionals are neutral receivers of the information.** In criminal cases, the defense has a right to learn of any inconsistent statements, statements that deny that a sexual assault occurred or other statements that may be important to the defense, regardless of whether the examiner believes those statements are true. [Brady v. Maryland, 373 U.S. 83 \(1963\)](#); [Texas Code of Criminal Procedure §39.14\(h\)](#).
  - b) Additionally, document:
    - i. To the best of your ability, obtain an accurate medical forensic history of the patient’s own statements, in quotations.
    - ii. All those present during the patient’s history and assessment.
    - iii. Time, date, and location of assault(s).
    - iv. Contact and/or penetrative acts by suspect(s)
    - v. Was the suspect injured in any way, if known?
    - vi. Use of lubricant, including saliva.
    - vii. Patient’s actions between the sexual assault and arrival at the facility (i.e., including but not limited to, brushing teeth, using mouthwash, changing clothes, vomiting, smoking, vaping, swimming, douching, showering, or bathing).
    - viii. For adults or adolescents, “Have you had sexual contact within the last five days?” Use best clinical judgment. Transparency is important; explain the reasons behind asking these questions, such as impact on overall health and evidence collection.

- ix. Was the patient or suspect menstruating at time of the assault(s) or at the time of the examination? Was the patient wearing a menstrual cup during the sexual assault or at the time of the sexual assault medical forensic assessment?
- x. Was a tampon present during the incident or at the time of medical forensic assessment?
- xi. Was a condom used?
- xii. If known, was there patient or suspect ejaculation? Where?
- xiii. Any weapon use or physical force, or threat of weapon use or physical force?
- xiv. Description of condition of clothing (and was clothing torn or stained prior to assault?).

**c) Evidence collection and packaging:**

1. Ensure written consent or authorization is obtained prior to assessment and evidence collection. Ensure assessment and evidence collection processes are culturally sensitive and patient centered. Ensure ongoing patient assent is obtained. Wear powder-free gloves when collecting and packing evidence. **Change gloves often and between each item of potential evidentiary value.** Inspect for SAEK integrity prior to using SAEK. Open sealed SAEK. Consider wearing gloves when handling any kit contents.
2. Refrain from coughing or sneezing when handling evidence.
3. Seal items of clothing separately in paper bags; only the patient's underwear go in the SAEK.
4. Use a prepackaged [DFSA](#) specimen kit to collect urine specimens, if indicated (i.e., including but not limited to, gaps in memory, loss of consciousness, nausea, vomiting, dizziness that are unexplained by other causes).
  - i. Drug facilitated sexual assault (DFSA) or toxicology collection kit. DFSA urine is recommended to be frozen, or at least refrigerated, and documentation of chain of custody must be maintained (National Institute of Justice [NIJ], 2017).
  - ii. Collect blood and/or urine from patient as per facility protocol.
  - iii. Place sealed and labeled blood and/or sealed and labeled urine DFSA specimens in the provided biohazard bag that is sealed and labeled. Place urine DFSA specimen inside a cardboard box which is also sealed and labeled. Urine should never be placed in the SAEK. Maintain chain of custody of the DFSA specimens.
  - iv. If facility does not have prepackaged DFSA kits, examiner may collect one grey-top tube of blood and a dirty urine specimen (do not have patient wipe before specimen collection). Maintain chain of custody of specimens. Follow facility policies.

5. All wet evidence (excluding swabs) should be air-dried prior to packaging wherever possible. Swabs can be placed directly in swab boxes and do not require additional air drying. If air drying is not possible, wet evidence should be refrigerated as soon as possible. Consider contacting law enforcement who has jurisdiction to take custody of specimens for drying.
6. Seal envelopes containing evidence with self-adhesive labels and/or tape. The examiner should never use saliva to seal envelopes.
7. Seal and label all evidence collected and place date and time of collection and the examiner's initials on packaging.

**d) Chain of custody:**

1. Collect evidence so that it will be admissible as evidence in legal proceedings later. Therefore, chain of custody must be maintained and documented throughout the entire patient assessment and evidence collection processes. Chain of custody documents the dates and times of everyone who handles every piece of evidence, from the time it is collected through to legal proceedings.
2. Evidence should be labeled with patient's name, date of birth, unique identifier number, examiner's initials, date, and time.
  - i. If adult patient chooses non-reporting method, the external SAEK is labeled only with the unique identifier number (often the medical record number or the Track-Kit barcode). The Track-Kit identifier can be utilized.
  - ii. Consider also labeling additional evidence not included in the kit (i.e., clothing collected when patient is reporting to law enforcement) with Track-Kit labels without the barcode.
  - iii. Evidence inside the SAEK is labeled according to standard facility procedure. Follow facility protocols on non-reporting evidence collection.
  - iv. Consider providing a card with the unique identifier for the patient if the Track-Kit identifier is not utilized.
3. Chain-of-custody documentation must include:
  - i. Receipt,
  - ii. Storage,
  - iii. Transfer of evidence,
  - iv. Date and time of each transfer, and
  - v. Printed name and signature of each person in possession of and transferring or receiving custody.

e) **Swab and evidence collection:** Concentrating evidence on two swabs from each site is best practice ([NIJ, 2017](#), p. 18). Explain process and reason for collection to patient before each site collection. Take digital images per facility protocol during assessment and evidence collection processes.

1. Moisten swabs with sterile water, if necessary, immediately prior to evidence collection. Swabs can be placed directly in the swab box without the need to air dry swab samples.
2. Maintain strict practices to prevent cross-contamination of evidence (i.e., change gloves between each site collection, do not speak, cough, or sneeze while handling the swabs). Use caution to avoid examiner contamination of evidence. Each sample should be placed in the appropriate evidence box prior to starting another sample collection to avoid contamination.
3. Seal swabs from left and right body parts in the same envelope but in different boxes (i.e., swabs from left and right breasts should be placed in different boxes, but both boxes can be sealed inside one envelope). Label swab boxes using labels in SAEK with site swabbed and if blind swab. Consider self-collected swab collection with guidance from health care professional as the process is trauma-informed and patient centered.
4. **Oral swabs:** Purpose is to recover foreign DNA. Foreign DNA is diluted or removed quickly in the mouth. If known or suspected oral assault, collect oral swabs as soon as possible, and before patient eats or drinks. When patient describes oral penetration or contact, it is suspected, or patient is unconscious, collect oral swabs. **If oral assault occurred, collect oral swabs for foreign DNA first.** Wait 15–20 minutes. Patient may also swish mouth with water then wait 15–20 minutes. Patient’s known DNA buccal swabs or an FTA® card should be obtained from every patient. Check local protocols. Some forensic programs may collect known DNA buccal swabs and an FTA® card.

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

Patients may collect their oral swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own oral swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility’s risk manager or legal personnel ([DoJ, 2013](#), p. 45).

5. Patient's known DNA buccal swabs and/or Whatman® Flinders Technology (FTA®) card: Purpose is to determine patient's DNA for comparison to other samples. **If oral assault occurred, collect oral swabs for foreign DNA first (see "[Oral swabs](#)" step above)**. Wait 15–20 minutes. Patient may also swish mouth with water then wait 15–20 minutes. Patient's known DNA buccal swabs or an FTA® card should be obtained from every patient. Check local protocols. Some forensic programs may collect known DNA buccal swabs and an FTA® card.

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

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

**Patient's known liquid blood sample**: Patient's known liquid blood samples (i.e., those in a blood tube) should not be collected as evidence for the SAEK. SAEKs with blood samples must be refrigerated. Most facilities and crime labs do not have the refrigerated storage space necessary to correctly store these samples.

6. Patient's head hair combings and comb, or swabs: Purpose is to collect trace evidence, including foreign hairs in cases of unknown or acquaintance sexual assault. Swabs of matted hair may be collected in lieu of combing. Examiner may choose to swab matted hair in lieu of combing hair. Using two swabs pre-moistened with sterile water, swab matted hair or areas where patient states may yield foreign DNA. Use trauma-informed care and clinical judgement.

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

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

a) Underwear: Regardless if the patient changed underwear (panties or other undergarments close to patients' genitalia; does not include bras) after the sexual

assault, the examiner should always collect underwear if the patient consents. Body fluids may be transferred to the underwear. If the patient is not wearing underwear at the time of the assessment, collect clothing that was in direct contact with the patient's anogenital area or thighs. Underwear is to be placed in the SAEK, if there is space.

- b) Outer clothing: Clothing worn during the sexual assault or immediately afterward may have foreign DNA and other materials and should be collected. Typical clothing collected includes bra, pants and shirts. Coats, socks and shoes may not need to be collected. Collection is based on the patient's description of the sexual assault and the examiner's clinical judgment. Clothing does not go in the SAEK (except underwear).

**Clothing collection process:**

- i. Put on new gloves. Place a clean sheet on the floor. Take the large changing paper out of the SAEK and spread it out on top of the clean sheet. Have the patient stand in the middle of the changing paper. Provide the patient some privacy when removing clothing (i.e., hold up a gown). Have the patient place individual items in separate areas on the changing paper.
  - ii. Label the changing paper. Inspect each piece of clothing. Document item, color, and any damage on the forensic record. Label each item of clothing with patient's name, date seen and examiner's initials. Consider photographing damaged or stained clothing.
  - iii. Place each item of clothing in a separate paper bag. Clothing does not go in the SAEK. Dry wet clothing, if possible. If unable to dry wet clothing, arrange for release to law enforcement with chain of custody. Notify law enforcement that the clothing is wet, so drying arrangements can be made. Bag each item individually to prevent cross-contamination. Seal and label each bag with date, time and examiner's initials. Seal all clothing bags inside a large bag. Seal and label large bag with date, time and examiner's initials.
  - iv. Label each large bag with a number also. For example, if there is a SAEK plus one bag of clothing, label SAEK "1 of 2" and bag "2 of 2". This documentation helps to ensure all evidence stays together during evidence transfers.
8. Dried secretions/debris: Purpose is to collect any dried secretions or debris found on the patient.

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

- a) Debris: Bindle debris into a paper provided in the SAEK and place in the envelope. Label with site of collection and possible sample information and seal with examiner's initials. Place envelope in the SAEK.
- b) Dried secretions: Flake dried secretions by gently scraping the secretions with a dry swab onto a paper bindle included in the SAEK ([DoJ, 2013](#), p. 103). After dried secretions have been scraped into the bindle, moisten two swabs with sterile water. Swab site with two moistened swabs. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the dried secretions/debris envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
- c) Touch DNA: Purpose is to collect any foreign DNA on patient, based on description of assault, patient actions between the assault and the exam and/or assessment findings (i.e., if patient describes being strangled, there may be foreign DNA on the patient's neck).

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

9. Fingernail swabs: Purpose is to collect foreign DNA, based on description of assault, patient's actions during and after the assault, and the exam and/or assessment findings.

**Recommended process:** Put on new gloves. Moisten the two small swabs and swab under the patient's fingernails, one set of two swabs for left hand nails and one set of two swabs for right hand nails. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the fingernail swabs envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

10. Patient's pubic hair combings and comb, or swabs: Purpose is to collect trace evidence, including foreign hairs in cases of unknown or acquaintance sexual assault. Swabs of matted hair may be collected in lieu of combing. Examiner may choose to swab matted hair in lieu of combing hair. Using two swabs pre-moistened with sterile water, swab matted hair or areas where patient states may yield foreign DNA. Use trauma-informed care and clinical judgement.

**Recommended process:** Put on new gloves. Open a small paper included in the SAEK over the patient's lap. Using a comb provided in the SAEK, comb the patient's hair over the paper. If patient prefers, the patient may choose to comb their own hair, in the

presence of the examiner. Document self-collection. Bindle the comb into the paper and place in the envelope. Bindling is the process of folding paper into thirds lengthwise. Examiner may choose to swab matted hair in lieu of combing hair. Using two swabs pre-moistened with sterile water, swab matted hair or areas where patient states may yield foreign DNA.

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

**Recommended process:** Put on new gloves. Swab the vulva with two swabs total (simultaneously). Swab the inner labia majora, labia minora and hymen. Avoid the urinary meatus. It may be necessary to pre-moisten the cotton-tipped applicators with sterile water.

Patients may collect their vulva swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own vulva swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45).

Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

12. Vaginal/cervical swabs: Purpose is to recover foreign DNA. Vaginal and cervical swabs should be collected only on adolescents or adults. The use of vaginal washings is not recommended as it dilutes the sample. For patients who do not consent to speculum insertion for examination and evidentiary purposes, consider offering:

- a) Blind vaginal swab collection by examiner, or Blind self-collected vaginal swabs while examiner observes. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own vulva swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45).

**Speculum lubrication:** There is little literature condoning or refuting the use of a water-based gel lubricant to facilitate speculum insertion ([Bakker, et al., 2017](#)). Therefore, for patient comfort, a scant amount of water-based gel lubricant may be utilized if applied to outside of speculum bills.

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

13. Penile swabs: Purpose is to recover foreign DNA. Consider allowing patients to swab their own penis.

**Recommended process:** Change gloves. Pre-moisten two swabs and swab the head of the penis, staying away from the urethral meatus. Use same two swabs to swab under the foreskin and the shaft of the penis.

Patients may collect their penile swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own penile swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45).

Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vaginal/cervical/penile swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

14. Scrotal swabs: Purpose is to recover foreign DNA. Consider allowing patients to swab their own scrotum.

**Recommended process:** Change gloves. Pre-moisten two swabs. Use two swabs to swab the scrotum.

Patients may collect their scrotal swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own scrotal swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45).

Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

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

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

16. Any retained objects in vagina or rectum: Purpose of collection is to recover foreign DNA or evidence. Follow facility protocols for safe removal of any retained objects in vagina or rectum. Use trauma-informed care and clinical judgement.

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

- f. **Documentation:** Use Texas Attorney General approved SAEK forensic assessment documentation forms or facility-approved medical forensic assessment documentation forms. Document an accurate history of the incident(s). Health care professionals are neutral receivers of the information. Use terms such as "reported" or "stated" rather than "alleged" when documenting patient's history (CCP §56A.2505). Document use of interpreter, if applicable. Follow facility protocol for electronic or written documentation. Print or write legibly. Accurately document all patients' statements (DoJ, 2013).

1. Document patient's:

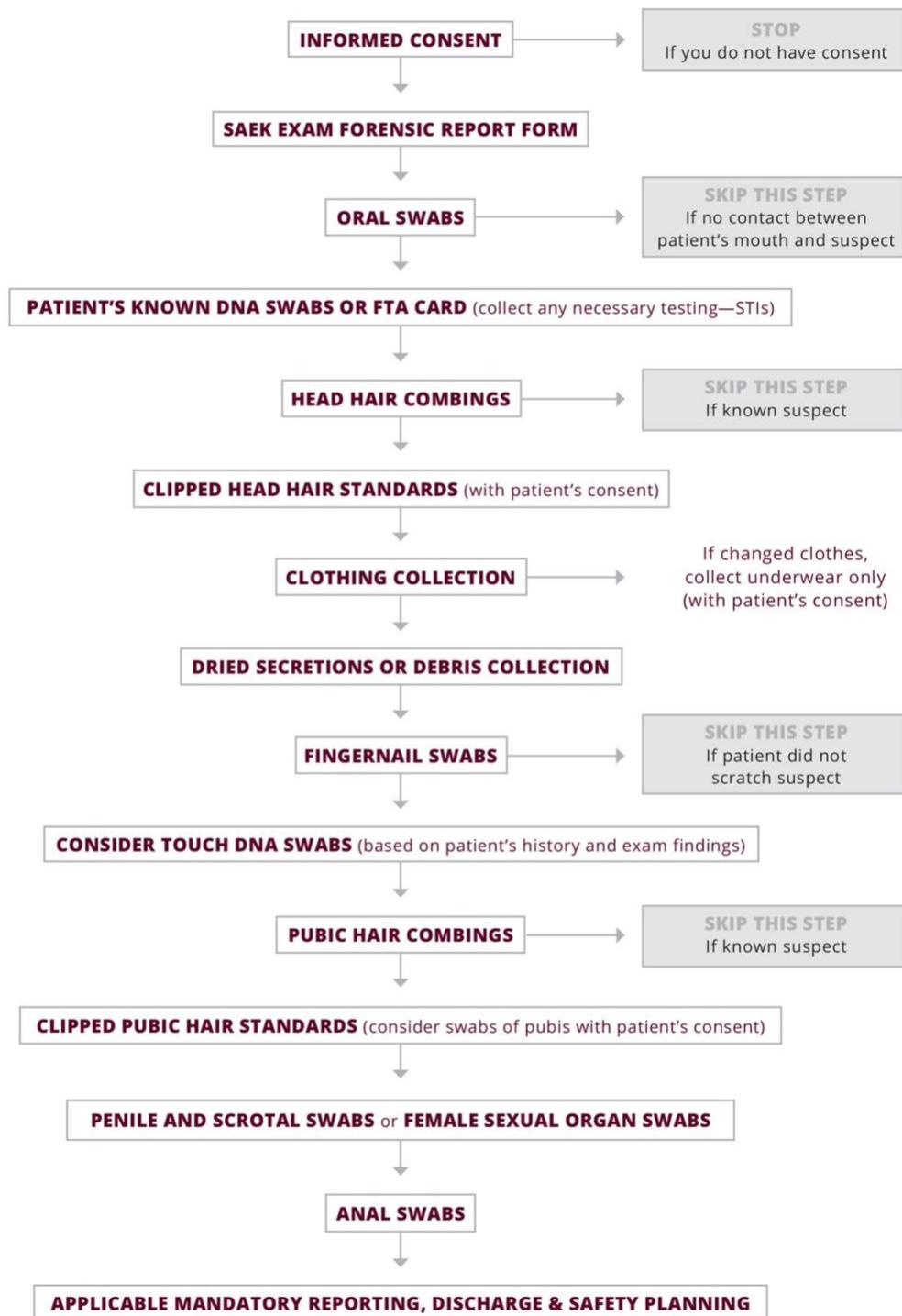
- i. Pertinent medical and surgical history,
- ii. Last menstrual period,
- iii. Gravida and para, and
- iv. Medications.

2. Complete medical forensic assessment documentation. Place one copy of forensic documentation in SAEK. Ensure there is a copy of the documentation for law enforcement. Original copy stays at the facility.

- g. **Sealing SAEK:** Change gloves. Remove red evidence labels and small bright orange biohazard label from SAEK. Once all evidence is appropriately labeled and sealed, seal SAEK with red evidence tape provided in the kit. Double check if sealed and re-seal kit when needed. Document if opened and resealed. Add biohazard label to front of SAEK. Complete documentation on the front of the SAEK.

1. Sign, date, and time over the evidence tape so signature goes from kit across label back to kit. This allows examiner to verify that tampering did not occur while testifying in legal proceedings.
2. Complete appropriate chain-of-custody documentation when transferring evidence.

# TEXAS EVIDENCE COLLECTION PROTOCOL ADULT/ADOLESCENT ASSESSMENT FLOWSHEET



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## PREPUBERTAL PEDIATRIC PROTOCOL

### INTRODUCTION

- **Prepubertal (pediatric) child:** “The pediatric population addressed in this protocol are solely prepubescent children” under 18 years of age who have not reached puberty. “A child’s stage of pubertal development is determined by assessing secondary sexual characteristics rather than chronological age. Although the onset and timeline of the pubertal process is unique to each child, the stages are identifiable and predictable” ([DoJ, 2016](#), p. 9).
- Child patients, under 18 years of age, should be seen by [specially trained medical forensic professionals](#).
- If there is not a specially trained medical forensic professional available, medical forensic history, assessment and acute evidence collection should be completed. Patient should then be referred to a pediatric forensic expert for additional assessment. Assessment findings and documentation should be reviewed and discussed with a pediatric forensic expert, if possible.
- All prepubertal children should have an assessment regardless of:
  - When the assault occurred (or was thought to have occurred), and
  - What the child stated occurred. Sometimes children may give caregivers only a small portion of what occurred ([McElvaney, 2015](#)). Highly trained SANEs, specially trained medical forensic professionals and child abuse pediatricians have the expertise and training to establish trust with pediatric patients and ask questions more appropriate to obtaining a history.
- Complete medical forensic assessment examinations can elicit:
  - Additional medical findings,
  - Patient’s history of new or additional information,
  - Information regarding sexually transmitted infections, or
  - The presence of other victims.
- *A National protocol for sexual abuse medical forensic examinations: Pediatric* can be found at this link ([DoJ, 2016](#)).
- *National best practices for sexual assault kits, a multidisciplinary approach*, can be found at this link ([DoJ, 2017](#)).
- Refer to *The biological evidence preservation handbook: Best practices for evidence handlers* ([NIST, 2013](#)).

## PREPUBERTAL MEDICAL FORENSIC ASSESSMENT AND EXAMINATION

### Intake Medical Personnel

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

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

1. Elicit information as privately as possible, regarding:
  - a. Safety (Is patient physically and psychologically safe? Is the suspected perpetrator present? Speaking with patient alone is important to obtain accurate information),
  - b. Pain, and
  - c. Bleeding.
2. If the assault occurred within the last 12 hours and the child has not had anything to eat or drink, instruct patient to not use restroom, wash, change clothes, eat or drink until evaluated by the forensic health care professional ([Christian, et al., 2000](#); [Girardet et al., 2011](#)). If patient must use restroom, collect urine and advise that patient does not wipe genitalia until after evidence has been collected, if possible. Use clinical judgment.
3. Consider collecting urine if drug-facilitated sexual assault ([DFSA](#)) is suspected. Maintain chain of custody of specimen.
4. Contact a Child Advocacy Center ([CAC](#)) or rape crisis center for an advocate hospital accompaniment, depending on community protocols. Advise patient and caregivers (when applicable) of advocate's expected arrival time and role as support for the patient and family. Contact Commercially Sexually Exploited Youth (CSEY) advocate, depending on community protocols. A comprehensive network of experts to provide critical wrap-around care and support for commercially sexually exploited children is available at <https://gov.texas.gov/organization/cjd/child-sex-trafficking-recover>.
5. Contact forensic health care professional and notify of patient's arrival. Advise patient and caregivers (when applicable) of expected wait times.

## Medical Forensic Examination

### 1. Informed consent (see [Consent](#))

- a) Informed consent occurs throughout the examination process. Education regards reasons for procedures should be explained to increase physical and psychological safety.
  - b) Introduce self to patient, describe plan of care, role of forensic health care professional and expected length of time to complete patient assessment. Invite patient to ask questions.
  - c) All patients, regardless of age, can assent or decline any portion or all the medical forensic assessment. Examiners should be flexible and alter process and approach as patient assents or declines throughout the examination. If the patient continues to decline, the patient can return at another time for medical forensic assessment. If patient returns within 120 hours since the assault, a SAEK may be collected. Inform patient and caregiver that the decision to decline or postpone the examination may result in additional medical costs.
2. Sexual assault of children less than 18 years old must be reported to law enforcement and/or child protective services (see [Mandatory Reporting](#)).
3. **Medical assessment.** May take place before or concurrently with forensic sexual assault assessment, depending on facility policy.
- a) **Obtain an accurate history of the incident(s). Health care professionals are neutral receivers of the information.** History is obtained based on child's age and developmental abilities. Use the child patient's verbiage and use quotations if possible. Not all children will be able to answer all questions asked. In criminal cases, the defense has a right to learn of any inconsistent statements, statements that deny that a sexual assault occurred, or other statements that may be important to the defense, regardless of whether the examiner believes those statements are true. [Brady v. Maryland, 373 U.S. 83 \(1963\)](#); [Texas Code of Criminal Procedure §39.14\(h\)](#).
  - b) Additionally, document:
    - To the best of your ability, obtain an accurate medical forensic history of the patient's own statements, in quotations.
    - All those present during the patient's history and examination.
    - Time, date, and location of assault(s).
    - Contact and/or penetrative acts by suspect(s)
    - Was the suspect injured in any way, if known?
    - Use of lubricant, including saliva.
    - Patient's actions between the sexual assault and arrival at the facility (brushing teeth, using mouthwash, smoking, vaping, changing clothes, vomiting, swimming, showering, or bathing).
    - Was a condom used?
    - Did ejaculation occur? Where?

- Any weapon use or physical force, or threat of weapon use or physical force?
- Description of condition of clothing (and was clothing torn or stained prior to assault?).

**c) Evidence collection and packaging:**

1. Ensure written consent or authorization is obtained prior to assessment and evidence collection. Ensure assessment and evidence collection processes are culturally sensitive and patient centered. Ensure ongoing assent is obtained.
2. Wear powder-free gloves when collecting and packing evidence. Change gloves often and between each swab collection. Open sealed SAEK. Consider wearing gloves when handling any kit contents. Inspect for integrity prior to using SAEK. Open sealed SAEK. Consider wearing gloves when handling any kit contents.
3. Refrain from talking, coughing, or sneezing when handling evidence.
4. Seal items of clothing separately in paper bags; only the patient's underwear go in the SAEK.
5. Use a prepackaged DFSA specimen kit to collect urine specimens, if indicated (i.e., including but not limited to, gaps in memory, loss of consciousness, nausea, vomiting, dizziness unexplained by other causes).
  - a) Drug facilitated sexual assault (DFSA) or toxicology collection kit. DFSA urine is recommended to be frozen, or at least refrigerated, and documentation of chain of custody must be maintained ([NIJ, 2017](#)).
  - b) Collect blood and/or urine from patient as per facility protocol.
  - c) Place blood and/or urine DFSA specimens in provided biohazard bag that is sealed and labeled. Place urine DFSA specimen inside a cardboard box which is also sealed and labeled. Urine should never be placed in the SAEK. Maintain chain of custody of the DFSA specimens.
  - d) If facility does not have prepackaged DFSA kits, examiner may collect one grey-top tube of blood and a dirty urine specimen (do not have patient wipe before specimen collection). Maintain chain of custody of specimens. Follow facility policies.
6. All wet evidence (excluding swabs) should be air-dried prior to packaging whenever possible. Swabs can be placed directly in swab boxes and do not require additional air drying. If air drying is not possible, wet evidence should be refrigerated as soon as possible. Consider contacting law enforcement who has jurisdiction to take specimens for drying.
7. Seal envelopes containing evidence with self-adhesive labels and/or tape. The examiner should never use saliva to seal envelopes.

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

**d) Chain of custody:**

1. Collect evidence so that it will be admissible as evidence in legal proceedings later. Therefore, chain of custody must be maintained and documented throughout the entire patient assessment and evidence collection processes. Chain of custody documents the dates and times of everyone who handles each piece of evidence, from the time it is collected through to legal proceedings.
2. Evidence should be labeled with patient's name, date of birth and unique identifier number, examiner's initials, date, and time.
3. Consider also labeling additional evidence not included in the kit (i.e., clothing collected when patient is reporting to law enforcement) with Track-Kit labels without the barcode.
4. Chain-of-custody documentation must include:
  - Receipt,
  - Storage,
  - Transfer of evidence,
  - Date and time of each transfer, and
  - Printed name and signature of each person in possession of or transferring or receiving custody.

**e) Swab and evidence collection:** Concentrating evidence on two swabs from each site is best practice ([NIJ, 2017](#)). Explain process to patient and guardians, and reason for collection before each site collection. Take digital images per facility protocol during assessment and evidence collection processes.

1. Moisten swabs with sterile water, if necessary, directly prior to evidence collection. Swabs can be placed directly in the swab box without the need to air dry swab samples.
2. Maintain strict practices to prevent cross-contamination of evidence (change gloves between each sample collection, do not speak or cough while handling swabs).
3. Seal swabs from left and right body parts in the same envelope but in different boxes (i.e., swabs from left and right breasts should be placed in different boxes, but both boxes can be sealed inside one envelope). Label swab boxes using labels in SAEK with site swabbed and if blind swab. Consider self-collected swab collection with guidance from health care professional as the process is trauma-informed and patient centered.

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

**Recommended process:** Put on new gloves. Using two swabs, swab inside the patient's mouth around the gum lines and under the tongue.

Patients may collect their oral swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own oral swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45).

Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the oral swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

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

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

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

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

6. **Patient's head hair combings and comb, or swabs:** Purpose is to collect trace evidence, including foreign hairs in cases of unknown or acquaintance sexual assault. Swabs of matted hair may be collected in lieu of combing. Use trauma-informed care and clinical judgement.

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

7. **Clothing:** Purpose is to recover possible foreign matter or DNA and to note any damage to clothing. Foreign matter or DNA may be deposited on the patient's clothing during a sexual assault. Damaged or stained clothing may be evidence. Consider photographing damaged or stained clothing. Follow facility policies.
  - Underwear: Regardless if the patient changed underwear (panties or other undergarments close to patients' genitalia) after the sexual assault, the examiner should always collect underwear if the patient consents. Body fluids may be transferred to the underwear. If the patient is not wearing underwear at the time of the assessment, collect clothing that was in direct contact with the patient's anogenital area or thighs. Underwear is to be placed in the SAEK, if there is space.
  - Outer clothing: Clothing worn during the sexual assault or immediately afterward may have foreign DNA and should be collected. Typical clothing collected includes bra, pants and shirts. Coats, socks and shoes may not need to be collected. Collection is based on the patient's description of the sexual assault and the examiner's clinical judgment. Clothing does not go in the SAEK (except underwear).

**Clothing collection process:**

Put on new gloves. Place a clean sheet on the floor. Take the large changing paper out of the SAEK and spread it out on top of the clean sheet. Have the patient stand in the middle of the changing paper. Provide the patient some privacy when removing clothing (i.e., hold up a gown). Have the patient place individual items in separate areas on the changing paper.

Label the changing paper. Inspect each piece of clothing. Document item, color, and any damage on the forensic record. Label each item of clothing with patient's name, date seen and examiner's initials. Consider photographing damaged or stained clothing.

Place each item of clothing in a separate paper bag. Clothing does not go in the SAEK. Dry wet clothing, if possible. If unable to dry wet clothing, arrange for release to law enforcement with chain of custody. Notify law enforcement that the clothing is wet so drying arrangements can be made. Bag each item individually to prevent cross-contamination. Seal and label each bag with date, time, and

examiner's initials. Seal all clothing bags inside a large bag. Seal and label large bag with date, time, and examiner's initials.

Label each large bag with a number also. For example, if there is a SAEK plus one bag of clothing, label SAEK "1 of 2" and bag "2 of 2". This helps ensure all evidence stays together during evidence transfers.

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

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

- Debris: Bindle debris into a paper provided in the SAEK and place in the envelope. Label with site of collection and possible sample information and seal with examiner's initials. Place envelope in the SAEK.
- Dried secretions: Flake dried secretions by gently scraping the secretions onto a paper bindle included in the SAEK (DoJ, 2013, p. 103). After dried secretions have been scraped into bindle, moisten two swabs with sterile water. Swab site with two moistened swabs. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the dried secretions/debris envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.
- Touch DNA: Purpose is to collect any foreign DNA on patient, based on description of assault, patient actions between the assault and the exam and/or assessment findings (i.e., if patient describes being strangled, there may be foreign DNA on the patient's neck).

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

9. **Fingernail swabs:** Purpose is to collect foreign DNA, based on description of assault, patient's actions during and after the assault, and the exam and/or assessment findings.

**Recommended process:** Put on new gloves. Moisten the two small swabs and swab under the patient's fingernails, one set of two swabs for left hand nails and one set of two swabs for right hand nails. Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the fingernail swabs envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

10. **Vulva swabs:** Purpose is to recover foreign DNA

**Recommended process:** Put on new gloves. Swab the vulva with two swabs total (simultaneously). Swab the inner labia majora and labia minora. Avoid the urinary meatus. Prevent contact of swabs with prepubertal female's hymen. Contact with the hymen can cause extreme pain in prepubertal females. It may be necessary to pre-moisten the cotton-tipped applicators with sterile water. Patients may collect their vulva swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own vulva swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45). Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

11. **Vaginal swabs:** Should never be collected in prepubertal females (have not reached menarche), except under sedation with physician direction and supervision, or by physician directly, only if sedation is medically indicated. Evidence collection is not a reason for sedation. Use trauma-informed care and clinical judgement.

12. **Penile swabs:** Purpose is to recover foreign DNA.

**Recommended process:** Change gloves. Pre-moisten two swabs and swab the head of the penis, staying away from the urethral meatus. Use same two swabs to swab under the foreskin and the shaft of the penis.

Patients may collect their penile swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own penile swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45). Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vaginal/cervical/penile swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

13. **Scrotal swabs:** Purpose is to recover foreign DNA. Consider allowing patients to swab their own scrotum.

**Recommended process:** Change gloves. Pre-moisten two swabs. Use two swabs to swab the scrotum.

Patients may collect their scrotal swabs with guidance from health care professional as the process is trauma-informed and patient-centered care. For chain-of-custody purposes, patients must be observed by the examiner while collecting their own

scrotal swabs. Document self-swabbing.

Prior to collecting swabs from an unresponsive or unconscious patient, it is recommended to consult facility's risk manager or legal personnel ([DoJ, 2013](#), p. 45).

Place the two swabs into a swab box. Close both ends of the box. Label box. Place labeled box in the vulva/scrotal swab envelope. Label and seal the envelope with examiner's initials. Place envelope in the SAEK.

14. **Anal swabs:** Purpose is to recover foreign DNA.

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

15. **Any retained objects in vagina or rectum:** Purpose of collection is to recover foreign DNA or evidence. The removal of retained objects in the vagina or rectum is a medically indicated process. Use trauma-informed care and clinical judgement.

**Recommended process:** Collection of retained objects in prepubertal females should be done under sedation by physician, protocol, or direct supervision. Collect retained object. Air dry. Once dry, place in additional evidence envelope. Label envelope with patient's name, date, time, and examiner's initials.

**15. Documentation:** Use facility-approved medical forensic assessment documentation forms. Document an accurate history of the incident(s). Health care professionals are neutral receivers of the information. Use terms such as "reported" or "stated" rather than "alleged" when documenting [patient's history \(CCP §56A\)](#). Document use of interpreter, if applicable. Follow facility protocol for electronic or written documentation. Print or write legibly. Accurately document all patients' statements ([DoJ, 2013](#)).

- Document patient's:
  - Pertinent medical and surgical history, and
  - Medications.
- When more than one examiner completes the assessment, clearly document which examiner completed what portion of the history and examination.
- Complete medical forensic assessment documentation. Place one copy of forensic documentation in SAEK. Ensure there is a copy of the documentation for law enforcement. Original copy stays in the facility.

16. **Sealing SAEK:** Change gloves. Remove red evidence labels and small bright orange biohazard label from SAEK. Once all evidence is appropriately labeled and sealed, seal SAEK with red evidence tape provided in the kit. Double check if sealed and re-seal kit when needed. Document if opened and resealed. Add biohazard label to front of SAEK. Complete documentation on the front of the SAEK.
- Sign, date, and time over the evidence tape so signature goes from kit across label back to kit. This allows examiner to verify that tampering did not occur while testifying in legal proceedings.
  - Complete appropriate chain-of-custody documentation when transferring.

# TEXAS EVIDENCE COLLECTION PROTOCOL PREPUBERTAL PEDIATRIC ASSESSMENT FLOWSHEET



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## **MILITARY FORMS**

- Follow DoD protocol if patient presents to a DoD facility.
- See Sexual Assault Prevention and Response Office, ([SAPRO](#)) Policy Toolkit
- DoD Sexual Assault Forensic Examination (SAFE) Report ([DD Form 2911](#))
- DoD Sexual Assault Evidence Collection [Kit Instructions and DD Form 2911](#)

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

### **KEY POINTS**

- A medical forensic exam is a medical exam that in most cases is subject to the Health Insurance Portability and Accountability Act of 1996.
- In Texas, ***anyone*** who “comes into possession of protected health information” is a covered entity and must comply with HIPAA privacy standards ([Texas Health & Safety Code §181.001\(b\)\(2\)\(B\)](#)). This includes, but is not limited to, health care professionals, investigatory agencies, and legal professionals.
- Health care providers may share copies of patient medical records only with other health care providers or health plans as needed for treatment or payment ([HIPAA Privacy Rule](#)).
- Health care providers may provide information to law enforcement without patient consent if the information is used to identify or locate a suspect, fugitive, material witness or missing person, or to inform law enforcement about the commission and nature of a crime.
- There is no statute of limitations on sexual offenses in Texas, therefore it is best practice to maintain medical forensic records related to sexual assault securely and indefinitely. Physicians and hospitals may not destroy a medical record from the medical forensic examination of a sexual assault victim until the 20<sup>th</sup> anniversary of the date the record was created ([Texas Health and Safety Code §241.1031](#)).
- Health care providers should obtain patients’ verbal and written consent to provide a copy of their medical forensic assessment record to law enforcement and attorneys and only with a subpoena or following facility policy.
- Health care providers may share information without patients’ consent in response to court orders issued by a judge, limited to the information requested in the court order.
- Health care providers do not need to obtain consent to report child abuse or child/dependent adult sexual abuse/assault to law enforcement and Child Protective Services ([Texas Family Code §261.001](#)).
- Gunshot wounds and controlled substance overdoses must be reported to law enforcement under Texas law ([Texas Health & Safety Code §161.041](#)).
- Patients have a right to inspect, review and receive a copy of their medical records under HIPAA.
- In Texas, providers must give patients a copy of their medical record within 15 business days of a written request if using electronic health records ([Texas Health & Safety Code §181](#)).

- Allowable exceptions under HIPAA to providing patients with a copy of their medical records are uncommon in sexual assault medical forensic examinations.
- Denials to release medical records to patients must be provided within 60 calendar days of a request and can be appealed.
- Health care providers can request patients meet with them to review patients' medical records and discuss concerns about releasing them; however, they cannot require patients to meet with them as a condition for providing the records.
- Medical records of students receiving health care at campus health centers are an exception; they are covered by Family Educational Rights and Privacy Act (FERPA) of 1974 ([Education U.S.C. §1232g](#), 2013) and HIPAA.

## PHOTOGRAPHS

- **Informed consent must be obtained from adult patients prior to obtaining photographs.**
- **Informed consent from the adult parent/caregiver/guardian should be obtained for child patients.**
- **Assent from children for obtaining photographs is recommended.**
- “A physician, dentist, or psychologist having reasonable grounds to believe a child’s physical or mental condition has been adversely affected by abuse or neglect may examine the child without the consent of the child, the child’s parents, or other person authorized to consent to treatment under this subchapter. An examination under this section may include x-rays, blood tests, photographs...” ([Texas Family Code §32.005](#)).
- **Patients have the right to know how photographs will be stored and utilized.**
- Reassure patients that the photographs are for medical forensic purposes and are protected in medical facilities.
  - Photographs and use of camera devices must follow facility protocols and be maintained appropriately.
  - **Do not use personal photography equipment/phones for taking photographs.** Chain of custody and confidentiality of photographs cannot be maintained while using personal photography equipment.
  - Photographs may be sealed by court order at conclusion of the legal proceedings ([Texas Code of Criminal Procedure §38.45](#)).
  - “‘Covered entity’ means any person who: (A) for commercial, financial, or professional gain, monetary fees, or dues, or on a cooperative, nonprofit, or pro bono basis, engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling, collecting, analyzing, using, evaluating, storing, or transmitting protected health information. The term includes a business associate, health care payer, governmental unit, information or computer management entity, school, health researcher, health care facility, clinic, health care provider or person who maintains an Internet site; (B) comes into possession of protected health information” ([Texas Health and Safety Code §181.001](#)).
- Photographs can be an important adjunct to the physical findings noted by the examiner on the body surface diagrams.
- Policies should be in place that outline the process for obtaining photographs, the method to be used to identify the patient in the photographs and the means to link the photographs to the permanent medical record for each patient.
- Photographs make it possible to obtain additional expert opinion of findings without requiring the patient to undergo additional assessments.

- Photographs are useful as part of a peer review process to help ensure competent medical forensic assessments.
- Photographs may be used in some legal proceedings to demonstrate physical findings.
- In children who experience recurrent sexual abuse, evaluation and comparison of findings is possible with good quality images ([Botash, 2009](#)).
- Photographs may be taken of normal findings, based on jurisdictional policies. In prepubescent patients, photo-documentation is considered a standard of care for both normal anatomy as well as for injuries ([DoJ, 2016](#)).
- Photograph or image management:
  - Anogenital photographs and images may not be routinely released to law enforcement.
  - Consider releasing anogenital photographs, images or videos only to prosecution with subpoena, after patient's express written consent,
  - Ensure there are clear statements in health record regarding if photographs or images were taken.
- Additionally, [Texas Government Code §420.032](#) states, "In a county with a population of three million or more, the forensic portion of a medical examination of a child reported to be the victim of a sexual assault must include the production of photo-documentation unless the medical professional examining the child determines that good cause for refraining from producing photo-documentation exists. The photo-documentation must include images of the child's anogenital area and any signs of injury apparent on the body of the child. If photo-documentation is not produced, the medical professional conducting the forensic portion of the medical examinations shall document in the child's medical records the reason photo-documentation was not produced."

## CONSENT

- Obtain written informed consent or authorization to conduct the medical forensic assessment before proceeding.
- Written, informed consent requires that the examiner has explained the medical forensic assessment process and the purpose of the assessment, including patients' right to decline any part or all said assessment.
- Informed consent is a process, not a single event or document. Continue to inform the patient about the process throughout the medical forensic assessment. Patients have the right to decline any part of the assessment, even after signing the written informed consent document.
- In the case of suspected child abuse or neglect, the health care provider does not need to obtain informed consent from the patient or caregiver ([Texas Family Code §32.005](#)); however, it is best practice to obtain written informed consent if possible.
- Obtain a separate written informed consent document for photographs.
  - Inform patients how photographs will be used (e.g., investigation, trial, education/training/peer review), the parts of the body you will photograph and patients' right to decline photographs of any part of the body.
  - Patients have the right to receive a medical forensic assessment if they decline photographs.
- Obtain a separate written informed consent document to release medical forensic assessment information to law enforcement, attorneys and/or the Department of Family and Protective Services.
- A minor patient aged 16 or older can decline an assessment even if the health care provider suspects abuse or neglect ([Texas Family Code §32.005](#); [Texas Department of State Health Services, 2016](#)).
- Written informed consent for treatment of a minor must include ([Texas Family Code §32.002](#)):
  - Name of the child,
  - Name of one or both parents and any guardians of the child,
  - Name of the person providing consent and relationship to the child,
  - Statement of the nature of the medical treatment, and
  - Date of treatment.
- Obtain verbal assent from minors before conducting an assessment; document if patient declines the anogenital assessment.

## MEDICAL FORENSIC ASSESSMENT DOCUMENTATION

- Some facilities use paper documentation while others use electronic medical record documentation or a hybrid of written and electronic documentation. In all patient interactions, it is important to maintain confidentiality of patient medical forensic assessment documentation according to [HIPAA](#).
- In addition to the standard privacy protections, sexual assault medical forensic assessment records contain sensitive information that have potential for use in criminal and/or civil investigations and prosecution.
- As with all medical records, access to medical forensic assessment records must be limited to authorized parties for treatment and payment purposes and to those for whom patients have provided specific written consent or as required by law (see [HHS Individual Rights under HIPAA](#)).
- “Documentation in the medical forensic record is critical not only for victim care in the aftermath of sexual assault but also in the investigation of the crime and processing of any evidence collected during the exam” ([DoJ, 2017](#), p. 28). Educate patients regarding benefits and risks of assenting or declining examination and evidence collection options. In criminal cases, the defense has a right to learn of any inconsistent statements, statements that deny that a sexual assault occurred, or other statements that may be important to the defense, regardless of whether the examiner believes those statements are true ([Brady v. Maryland, 373 U.S. 83 \(1963\); Texas Code of Criminal Procedure §39.14\(h\)](#)).
- Health care professionals who collect sexual assault evidence samples “should record an inventory of each item as part of the medical forensic documentation” ([DoJ, 2017](#), p. 28).
- Each health care provider must sign (electronically or handwritten) the medical forensic record. There is no legal requirement that each page be signed. It is recommended that the documentation clearly notes which provider completed each portion of the examination and evidence collection process. Therefore, the Sexual Assault Medical Forensic Assessment Report ([link](#)) and diagrams ([link](#)) have initials on each page and a signature at the end of the report.

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

- Inform patients that the examiner:
  - Will ask about the sexual assault,
  - Needs to know what happened so that the examiner:
    - Knows what treatment to offer based on the health risks the patient was exposed to, and

- Knows what parts of the body to collect evidence from, if the patient wishes to have evidence collected.
- For adolescent or adult patients, examiner should ask them to start from what they remember just before the sexual assault occurred to when they arrived at the facility.
- To the best of your ability, obtain an accurate medical forensic history of the patient's own statements, in quotations.
- Document an accurate history of the incident(s). Health care professionals are neutral receivers of the information.
- For many patients, providing the history is one of the most traumatic parts of the examination. Using trauma-informed patient care techniques allows the patients to proceed through the examination process at a pace that is comfortable for them.
- The presence of a sexual assault advocate to provide support (i.e., provide comfort) may alleviate fear, stress and anxiety.
- **Best practice: Use open-ended questions that allow for narrative responses.**
- For prepubertal children, the process is slightly different:
  - Avoid extensive interviewing of children if examiner is not a trained sexual assault nurse examiner, specially trained medical forensic professional or a specially trained forensic physician.
  - Clarification questions may need to be asked to ensure examiner has the full history, to provide appropriate medical care and treatment.
- Offer patients the opportunity to write their history down if they do not wish to state it out loud.
- If patient can add detail, ask them to clarify unclear statements that are relevant to the medical forensic examination.
  - For example, ask them to clarify what they mean by various terms related to body parts and to specify exactly which body parts had contact. Patients may prefer to indicate body parts by pointing on their own bodies or on body diagrams.
  - Remind patients that the purpose of these clarifications is to offer appropriate treatment and collect relevant evidence.
  - Examples:
    - “Is there something else that happened to you?”
    - “Is there something else I need to know?”

- “Is there someone else I need to know about?” to the best of your ability, obtain an accurate medical forensic history of the patient’s own statements, in quotations. Direct quotations are best practice ([DoJ, 2016](#), p. 126).
- Thank patients for providing the history once complete and acknowledge that it may be difficult to talk about.
- If typing the history on a computer into a document for printing, consider signing the document to include your credentials and date; delete the document from the computer if it is not a part of an electronic medical record.

## **SEXUAL ASSAULT MEDICAL FORENSIC ASSESSMENT DOCUMENTATION**

### **Injury Documentation**

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

### **Key points – Body Diagrams:**

Consider the following:

- Use the body diagrams provided in the sexual assault evidence collection kit, facility-approved diagrams or diagrams available online at [Center of Excellence in Forensic Nursing](#)
- Use a body diagram that most closely matches the anatomy and developmental stage of the patient at the time of the examination. Adult/adolescent, child and infant diagrams are available in the SAEK.
- If patient’s anatomy is different than their gender identity, document patient’s gender identity.
- Use supplemental body diagrams to show injury to parts of the body not easily documented on the full body diagram (i.e., face, head, neck, hands or feet).
- Use an anogenital diagram to document anogenital injuries.
- Consider including a body diagram and an anogenital diagram in every medical forensic record even if no injury is found. See diagrams at [Center of Excellence in Forensic Nursing](#). Follow facility policy.

- Place a patient label with the patient’s full name, date of birth and medical record number on each body diagram.
- If no injury is found, document such, or note on the body diagram by checking the box “No injury noted.”
- Document the measurement, description and location of each injury (in mm or cm) on the body diagram that corresponds to the location of the injury on the patient. Use arrows or numbering to indicate the location of each injury described.
- Describe the injury. See definitions on page 5 for list of [medical forensic terminology](#).
- Document the location of anogenital injuries using clock positions when the patient is lying on her/his back. For example, an injury to the clitoris would be at 12 o’clock.
- If you used toluidine blue dye (TBD), document this and positive dye uptake on the anogenital diagram. TBD should be used only by specially trained medical forensic professionals.
- Sign name, with credentials, and the date on every diagram.

### **Photographic Documentation**

- These photographic documentation recommendations are for specially trained medical forensic professionals.
- Photographs should be taken by the health care provider conducting the medical forensic assessment, respecting the dignity and privacy of the patient. “Taking photographs of patient’s anatomy that was involved in the assault should be part of the medical forensic examination process in sexual assault cases” ([DoJ, 2013](#), p. 91).
- **Do not take photographs of the anogenital area unless you are a specially trained medical forensic professional.** Any photos taken by non-medical professional should include only the head and extremities ([DoJ, 2016](#), p. 91).
- “Photographs taken during the medical forensic examination become part of the patient’s ‘medical record’” ([DoJ, 2016](#), p. 129) or per facility policy.
- “Examiners are encouraged to seek training on photography techniques and procedures” to use with patients who experienced sexual violence ([DoJ, 2016](#), p. 129).
- “Respect patients’ choices regarding photography.” If the patient “does not assent to all or any part of photography, their choices must be honored” ([DoJ, 2016](#), p. 130).
- Recommendations:
  - “Consider the extent of forensic photography necessary.
  - Consider the equipment.

- Be considerate of patient comfort and privacy. Strive to minimize the patient’s discomfort while being photographed.
- Explain forensic photography procedures to patients.
- Take initial and follow-up photographs as appropriate, according to jurisdictional policy” ([DoJ, 2013](#), p. 91).
- **Basic photographic principles:**
  - “Patient identification—Link patients’ identifying information to each photographic image, according to jurisdictional and facility policy. For example, include patient name, date, and time as the first image” ([DoJ, 2016](#), p. 131).
  - Clear and accurate photographs—Images taken that do not provide a clear and accurate depiction can be deleted.
  - “Standard—Use a standard or ruler for size reference in photographs, in addition to those photographs that identify patients and anatomical locations being photographed” ([DoJ, 2016](#), p. 131).
  - Take photographs of the patient “prior to the collection of forensic specimens and medical interventions, such as cleaning or suturing, when possible. Do not alter or move forensic evidence before photographing” ([DoJ, 2016](#), p. 131).
  - “Orientation of shots. Take at least three shots at different distances from the body:
    - Take an overview image of the injury’s location, including anatomical landmarks for orientation of the injury.
    - Take medium-range photographs of each injury, providing a wide enough view to identify the specific anatomical site being photographed.
    - Take close-up images of injuries, with and without the standard. The goal of the close-up images should be to capture subtleties in texture and color and any pattern injuries that may be observed” ([DoJ, 2016](#), p. 131).
  - These are recommendations; not all patients will tolerate or consent to the above process.
- **Procedure for anogenital injuries:**
  - See above for [non-medical professional photographs](#).
  - When possible, photograph genitalia injuries before inserting a speculum.

- Use a hands-free method for photograph or image-capture, if possible, so you can use both hands to better visualize anatomy. Use various techniques to better identify injuries or other findings to the genitalia and/or anus.
- Use of toluidine blue dye (TBD): Only use TBD if forensically trained in the use of TBD.
  - “Toluidine blue dye binds to nucleated squamous cells in the deeper layers of epidermis and when properly applied will only stain areas with acute injuries or areas that have been recently abraded of the top epithelial layer. Use of toluidine blue dye increases the sensitivity of injury detection in the forensic exam and can assist in illuminating injuries for photography and view by non-medical personnel” ([American College of Emergency Physicians](#), 2014, p. 67).
  - If using TBD to visualize anogenital injuries:
    - Collect evidence before TBD.
    - Consider taking a series of photographs without the dye first.
    - Apply the dye and photograph before removing dye.
    - Consider photographing injuries with dye uptake, after removing excess dye.

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

### **Key Points:**

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

- All tests, medications and treatments provided, including but not limited to:
  - Pregnancy test.
  - Tests for sexually transmitted infections (including HIV).
  - Medications and prescriptions provided; medications declined and reasons for declining.
- Assessments, including but not limited to:
  - Head-to-toe and anogenital assessments.
  - Use of speculum (females who are post-menarchal only).
  - Use of toluidine blue dye (use only if trained).
  - Use of foley catheter to visualize hymen (use only if trained).
  - Use of colposcope, digital photographs and alternate light source.
- Evidence collected, including but not limited to:
  - Swabs and trace evidence from the patient's body, location and why it was collected. Put on envelope in patient's own words using quotes if they give a reason.
  - Clothing.
  - Photographs taken.
- Discharge instructions signed by both the health care provider and the patient.
- Consider adding a [Track-Kit](#) label without the bar code on the patient's discharge instructions.
- Consider utilizing statements such as, "Sexual assault by history," or "Concern for sexual assault" as statement of reason for visit.
- Refrain from documenting opinions.
- Use terms "reported" or "stated" rather than "alleged" when documenting patient's history ([Texas Code of Criminal Procedure §56A](#)).

## **CHAIN OF CUSTODY**

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

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

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

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

## MEDICAL TREATMENT OF PATIENT

### Sexually Transmitted Infections

- The Centers for Disease Control (CDC) and Prevention updated the sexually transmitted infection (STI) guidelines in 2021. For latest guidelines, see [STI Treatment Guidelines](#).
- Testing:
  - Nucleic acid amplification tests (NAATs) for Chlamydia trachomatis (C. trachomatis) and Neisseria gonorrhoeae (N. gonorrhoeae) of sites of penetration or attempted/suspected penetration.
  - Wet prep, urine or vaginal NAAT for Trichomoniasis vaginalis.
  - Wet prep, vaginal pH, and potassium hydroxide (KOH) or bacterial vaginosis and candidiasis.
  - Serum samples for:
    - HIV,
    - Hepatitis B, and
    - Syphilis.
  - Follow local protocols regarding weight or BMI for pregnancy prophylaxis and STI prophylaxis.
  - Adult Females (patients over 45 kg):
    - Ceftriaxone 500 mg IM in a single dose (1 g for persons weighing greater than 150 kg), plus
    - Doxycycline 100 mg two times per day orally for seven days, plus
    - Metronidazole 500 mg orally two times per day for seven days (females). Contraindicated if alcohol consumption. Consider providing a prescription.
    - See [CDC \(2021\) for other treatment options](#).
  - Adult Males (patients over 45kg):
    - Ceftriaxone 500 mg IM in a single dose (1 g for persons weighing greater than 150 kg), plus
    - Doxycycline 100 mg two times per day orally for seven days.

- Consider prophylaxis or treatment (patients over 45 kg):
  - Post-exposure hepatitis B vaccination without hepatitis B immune globulin (HBIG) “if hepatitis status of assailant is unknown and the survivor has not been previously vaccinated,” plus
  - Human papillomavirus (HPV) vaccination for all sexual assault patients 9–26 years of age who have not received vaccine previously or are incompletely vaccinated, plus
  - HIV PEP (refer to [CDC, 2016](#), for current recommended treatment regimen).
- Prophylaxis or treatment (patients under 45 kg):
  - “Presumptive treatment for children who have been sexually assaulted or abused is not recommended because the incidence of most STIs among children is low after abuse or assault, prepubertal girls appear to be lower risk for ascending infection than adolescent or adult women, and regular follow-up of children usually can be ensured” (CDC, 2021).
  - Ceftriaxone 25–50 mg/kg IM in a single dose (not to exceed 250 mg), plus
  - Erythromycin 50 mg/kg/day PO divided into four doses/day for 14 days.
  - See [CDC \(2021\)](#) for other treatment options.
- Consider treatment (patients under 45 kg):
  - Post-exposure hepatitis B vaccination without HBIG, plus
  - Human papillomavirus (HPV) vaccination for all sexual assault patients 9–26 years of age who have not received vaccine previously or are incompletely vaccinated, plus
  - HIV PEP (refer to [CDC, 2016](#), for current recommended treatment regimen).

### **Pregnancy Prophylaxis**

- Emergency contraception is also referred to as “the morning after pill” or “emergency prophylaxis pill (ECP).”
- May be taken within five days (120 hours) after sexual assault to reduce the risk of pregnancy.
- ECP works by temporarily stopping the ovary from releasing an egg or preventing fertilization of an egg (the uniting of sperm with the egg) or by preventing attachment (implantation) to the uterus (womb).
- Ensure all female patients have informed consent on pregnancy prophylaxis.

- Catholic patients have the right to protect themselves from an unwanted pregnancy related to sexual assault. See [Ethical and Religious Directives for Catholic Health Care Services Doctrine 36 \(2016\)](#).
- Emergency contraception is a method of birth control to be used occasionally in specific emergency situations, not as a primary form of birth control.
- Using emergency contraception should not be confused with taking medicine to induce an abortion. The “abortion pill” contains different medications.
- Hormonal or intrauterine emergency contraception will not interfere with an existing pregnancy.
- Women who cannot use estrogen-containing hormonal birth control as their primary method of contraception (such as those with a history of heart attack, stroke, clotting disorders, migraine headaches or liver disease, or who are breastfeeding) can use emergency contraception because the hormones are taken for only one day.

### **Pregnancy Prophylaxis Treatment:**

- Regimen containing a form of the hormone progesterone called **levonorgestrel**.
  - Single-dose regimen is Plan B One-Step® 1.5 mg tablet (My Way, Next Choice One Dose) OR two-dose regimen is Plan B® (0.75 mg) tablets (Plan B® available OTC for everyone). Ulipristal (Ella®) is more effective in women with BMI >26.
  - Most effective if taken within 72 hours (3 days) but can be taken up to 5 days (120 hours).

Combination regimen containing forms of two hormones, progesterone and estrogen, is most effective when taken as soon as possible up to 120 hours (5 days) after sexual assault.

- Ulipristal acetate (Ella®) is not a hormone. It is a synthetic compound that works by blocking progesterone receptors. This delays ovulation and/or prevents implantation.
  - Effective up to 120 hours (five days) after sexual assault, and evidence supports it is as effective on day five as it is day one.
  - Ella® is more effective than Plan B One-Step if taken more than 72 hours post unprotected vaginal-penile intercourse ([Rosato, Farris, & Bastianelli, 2016](#)).
  - If a patient is taking hormonal contraception and has not missed a dose, using Ella® might make their birth control less effective (i.e., giving Ella® “just in case” is contraindicated in these patients).

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

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

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

- Nausea and vomiting are the most common side effects of ECP. Follow facility protocol if the patient vomits within two hours of ECP ingestion.
- Altered menstrual cycle, to include:
  - Menstrual cycle may be sooner, later, longer or shorter than patient's normal cycle.
  - Educate patient that if she does not have her cycle within three or four weeks of taking emergency contraception, she should take a pregnancy test.
- Other side effects include headache, fatigue, abdominal pain, dizziness and dysmenorrhea. Side effects are typically less common and milder with Ella® than other pregnancy prophylaxis.

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

- While documented cases of HIV infection from sexual assault have not been widely published, there is still a risk of transmission ([CDC, 2016](#)) and individual cases have been documented. Therefore, it is important to assess the level of risk after a sexual assault has occurred.
- Providers should offer prophylactic treatment to reduce the risk of seroconversion as appropriate within 72 hours of contact (CDC, 2015).
- HIV Prophylaxis Hotline (888) 448-4911
- HIV PEP resources:
  - [HIV nPEP](#)
  - [HIV resources](#)

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

- HIV prophylaxis is a 28-day regimen of three classes of medications and requires baseline laboratory testing and follow-up to monitor adherence, side effects and HIV status. Patients may be required to pay up-front costs for medications and seek reimbursement through Crime Victims' Compensation, if reporting the assault to law enforcement. Emergency medical care compensation may be available to cover costs for the emergency medical care a person who experiences sexual assault may incur during a sexual assault examination at a hospital. ([Texas OAG](#)).
- Assess the risk for HIV infection in the assailant, if possible.
- Evaluate risk based on the circumstances of the assault as related to risk of possible transmission.
- Consult with an Infectious Disease specialist for medication and dosing recommendations if considering initiating PEP.
- Discuss with the caregiver the risks and benefits of prophylactic treatment.
- Obtain a baseline HIV test of the child at the time of the medical forensic examination.
- If PEP is initiated, also order a CBC and serum chemistry at the time of the medical forensic examination.
- Provide enough medication to last until the first follow-up visit, ideally 3–7 days. Infectious disease specialist will then assess tolerance to the medications.

## **HIV Follow-up Care**

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

## **Quick Links to the Guidelines**

- [Updated Guidelines for Antiretroviral Post-Expose Prophylaxis after Sexual, Injection Drug Use, or Other Non-Occupational Exposure to HIV—United States, 2016.](#)
- [2021 Sexually Transmitted Infections Treatment Guidelines](#)

## **FORENSIC CARE OF SUSPECTS**

- People suspected of sexual assault have rights. Health care professionals should confirm and document the legal authority (search warrant, consent, exigent circumstances) used by law enforcement for collection of evidence from the suspect.
- Forensic exams will be paid for by the law enforcement agency requesting the exam.
- It is recommended that suspects in handcuffs remain handcuffed during the exam for safety and to avoid possible destruction of evidence. Collaborate and communicate with law enforcement on best way to maintain safety of everyone.
- It is recommended that the examiner ask for suspects to be always supervised by law enforcement, for safety and to avoid destruction of evidence.
- When the investigation identifies a suspect, the investigating officer may attempt to collect a suspect DNA reference standard and may request a sexual assault suspect forensic examination also.
- If the suspect consents to submission of DNA evidence, the suspect's consent shall be documented in the law enforcement case report and in the forensic documentation at the health care facility.
- If the suspect declines to submit DNA evidence, a search warrant is required to collect any biological samples from the suspect.
- When sexual assault suspect forensic examinations are performed on a suspect who is in custody, the investigating officer shall advise the suspect of their rights as required by the Miranda decision prior to the suspect being asked any questions by the medical forensic examiner.
- The methods used to obtain the suspect DNA sample shall be documented in the case report.
- The suspect's DNA sample shall be collected, submitted for testing, stored, and retained.

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

- Texas Department of Criminal Justice (TDCJ) is responsible for statewide criminal justice for adult offenders, including managing offenders in state prisons, state jails and private correctional facilities.
- Prison Rape Elimination Act (PREA) ([Public Law 108-79](#)) of 2003 provides patients who are inmates in state prisons the right to medical forensic examinations and secures many other rights of those patients.
- Follow medical and criminal justice facility policies on care and treatment of patients in custody. Consider the degradable nature of evidence and time between assault and medical forensic assessment.
- When a patient is a prisoner incarcerated in a TDCJ facility, it is recommended to:
  - Contact the Office of Inspector General (OIG) at 281-853-5947 for authorization to complete a medical forensic sexual assault examination with evidence collection.
  - Request an OIG case number; however, initially you may receive an Emergency Action Center (EAC) incident number. Record the investigator's name.
  - Have the patient voluntarily consent to have the medical forensic sexual assault examination with evidence collection.
- **During the medical forensic assessment:**
  - Conduct the examination according to the TDCJ's investigation protocol (Texas Department of Criminal Justice, Correctional Institutions Division, 2019). Although inmates are patients, they are in the custody of TDCJ.
  - Remove any object in reach of the patient.
  - Contact the OIG upon completion.
  - Release the evidence to the OIG investigator or person designated by the OIG as investigator.

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

- Juvenile Detention Center (JDC) is a secure prison or jail for persons under the age of 18 years.
- Secure detention is for short periods of time to await current trial hearings and further placement decisions.
- Secure confinement implies that the juvenile has been committed by the court into the custody of a Secure Juvenile Correctional facility for months to years.
- When a patient is a prisoner incarcerated in a Texas JDC facility:
  - Contact the law enforcement of jurisdiction where the sexual assault occurred for authorization to complete a medical forensic sexual assault examination with evidence collection.
  - Request a law enforcement sexual assault case number.
  - Have the patient voluntarily consent to have the medical forensic sexual assault examination with evidence collection.
- **During the medical forensic assessment:**
  - Although inmates are patients, they are in the custody of JDC.
  - Conduct the examination according to TDCJ's investigation protocol. See [28 CFR 115.121, TDCJ Safe Prisons/PREA Plan](#).
  - Remove any object in reach of the patient
  - Release the evidence to the officer/detective designated by the law enforcement agency.

## ELDERLY PATIENTS WHO ARE SEXUALLY ASSAULTED

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

## PATIENTS WITH DISABILITIES

- Patients with disabilities have rights to assent or decline the examination, or to participate with DFPS or law enforcement investigation.
- Individuals presenting with disabilities may exhibit a wide range of skills and functioning.
- [Disability](#) may involve physical impairment, sensory impairment, cognitive or intellectual impairment, mental disorder, or various types of chronic disease.
- Ask patient and/or guardian or family member for direction on patient's abilities, and how to best support those abilities.
- Refrain from collecting any adaptive devices, even if it believed there may be evidence of an assault. Consider alternative collection techniques, such as photography and swabbing

## MANDATORY REPORTING

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

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

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

- Telephone: 1-800-252-5400
- [Online report](#)

## KEY CONSIDERATIONS FOR PATIENTS WITH A DISABILITY

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

- Ensure the patient's needs for privacy and confidentiality are met (e.g., during anogenital exam) if interpreter is in the room.
- An individual diagnosed with a seizure disorder may exhibit certain behaviors prior to a seizure occurring. It is important to be aware of these signs should the individual have a seizure during the examination.
- Utilize person-first language in oral and written communications. Person-first language refers to individual with differing abilities as people first. For example, instead of saying "an autistic patient," utilize "a patient with autism."
- It is best practice when requesting a sexual assault advocate, to ensure that the sexual assault advocacy program is informed that the patient or support person(s) has a disability so they can accommodate as needed.
- If possible, the provider should find out the individual's baseline social/emotional/behavioral functioning prior to the abuse, as well as the level of independence, skills sets and interests.
- Many individuals with disabilities know their abuser.
- Be calm, literal and concrete.

## **PATIENTS WHO IDENTIFY AS LGBTQ+**

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

## **RESOURCES**

- [Center of Excellence for Transgender Health](#)
- [Connecticut Alliance to End Sexual Violence](#)
- [GLAAD](#)
- [It Gets Better Project](#)
- [Rape Crisis Information](#)
- [Stop Bullying](#)
- [Texas Advocacy Project](#)
- [The Trevor Project](#)
- [Transgender Education Network of Texas \(TENT\)](#)
- [World Professional Association for Transgender Health \(WPATH\)](#)

## PATIENTS EXPERIENCING INTERPERSONAL VIOLENCE

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

## ADULT MALES

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

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

- Societal stigma related to the sexual assault of a male as largely overlooked, ignored or regarded as a joke.
- Fear of blame, disbelief, or other negative reactions.
- Patients may question their sexual identity post–sexual assault.
- Fear of being judged because an erection and/or ejaculation was experienced during the sexual assault.
- Fear of embarrassment of examination in a hospital setting.
- Fear of being ridiculed.
- Cultural myth that when an adult encourages an adolescent to engage in sexual activity, the child is considered “lucky” to be having sex with an older individual.

## TREATMENT

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

## PREGNANT PATIENTS

- Pregnant patients who are sexually assaulted by intimate partners might also be survivors of interpersonal violence.
- Possible indicators of IPV in pregnancy may include a history of ([Bohn, Tebben, & Campbell, 2004](#)):
  - Prior medical visits for injuries.
  - Abuse or assault.
  - Repeated visits beyond well-woman pregnancy visits.
  - Depression, substance use, anxiety and suicide attempts.
  - Unintended pregnancy, or unhappy about current pregnancy.
  - Young mother.
  - Low education level.
  - Single.
  - Delayed prenatal care or missed appointments.
  - Flat affect.
  - Poor eye contact.
  - PTSD symptoms.
- Risk factors for IPV and sexual assault in pregnancy:
  - While IPV is found across all socioeconomic status levels, it is identified at higher rates when associated with:
    - Poverty ([Bohn et al., 2004](#)),
    - Lower education levels ([Bohn et al., 2004](#)),
    - Women of minority,
    - Joblessness,
    - Drug or alcohol abuse of mother or partner, and/or
    - Stress.

- Statewide intake (via DFPS) “cannot recommend an investigation regarding concerns for an unborn child. The child must be born alive before DFPS has jurisdiction to intervene. Exceptions that allow reports to be taken for unborn children:
  - Professional reporter (typically law enforcement, medical or casework staff) is requesting DFPS assistance, and
  - Mother is expected to deliver in the next 24–48 hours” (DFPS, 2017).
- Trauma in pregnancy: An updated systemic review ([Mendez-Figueroa, Dahlke, Vrees, & Rouse, 2013](#)).

## INDIGENOUS PATIENTS

- For jurisdictional issues and direction consult with law enforcement agency who has jurisdiction.
- [General Guide to Criminal Jurisdiction in Indian Country](#)
- [Native Child Alliance](#)
- [Indian Law](#)

## POLICY

- [Indian Health Service \(IHS\) Sexual Assault Policy](#)
- [IHS Intimate Partner Violence Policy](#) (as sexual assault is often a component of IPV, it relates to what you may need)
- [IHS policy on Responding to Requests for IHS employee's testimony](#)

## TRAINING

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

## OTHER RESOURCES

- [National Indigenous Women's Resource Center](#) (2018)
- [DoJ, 2013](#)
- National best practices for sexual assault kits; a multidisciplinary approach ([download report](#))

## DRUG-FACILITATED SEXUAL ASSAULT

### KEY POINTS

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

## STRANGULATION

### KEY POINTS

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

- Do you remember the entire event? If the patient does not remember part of the event, or is not sure, assume they lost consciousness.
- While you were being strangled, did you lose control of your body functions (i.e., urinate or defecate)?
- Describe what you were feeling? Seeing? Hearing? Tasting?
- Describe pressure on a scale of one to ten.
- Also evaluate for signs of head trauma. Notify treating physician if signs of head trauma.
- Know the signs and symptoms of strangulation. Assess for marks and swelling of the neck, and petechiae in the sclera, roof of mouth, face, behind ears and pinna and scalp. Ask about memory loss, extremity weakness, difficulty speaking, urination, defecation, dizziness, headaches, vomiting, ringing in the ears, voice changes and difficulty breathing (Strangulation Institute, 2019).
- Describe injuries.
- Photo-document injuries, if possible.
- See the [Training Institute on Strangulation Prevention](#) (2017a, 2017b) for a documentation protocol.
- [Training Institute on Strangulation Prevention imaging guidelines](#)
- [Strangulation Protocol](#)
- [Strangulation Signs and Symptoms \(adults\)](#)
- [Strangulation Signs and Symptoms \(pediatrics\)](#)

## UNCONSCIOUS PATIENTS

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

## HUMAN TRAFFICKING

- Human trafficking (HT) is a human rights violation and a public health issue.
- Survivors of sex trafficking can experience or witness significant violence and psychological manipulation.
- Survivors are often told by their trafficker to lie about their name, age and circumstances.
- **If a person (especially a child) is potentially in imminent danger a call to local law enforcement would be appropriate.**
- The severe and chronic trauma suffered by survivors of sex trafficking may make it difficult for health care providers to gather a patient's history in an organized manner.
- It is important to obtain the patient's history outside of the presence of anyone who accompanied them to the exam ([Greenbaum et al., 2015](#); [Potter & Sharma, 2017](#)).
- Care Coordination is beginning to be more widely operationalized in Texas. The local children's advocacy centers are in the primary role (except for Harris County where it is their county CPS). ([Office of the Texas Governor, Greg Abbott, n.d.](#)). In the communities where Care Coordination has been initiated, the local CAC typically serves in the primary role as [Care Coordinator](#), except for Harris County, where it is a consortium of county agencies.
- ([DFPS Human Trafficking and Child Exploitation Team](#))
- Children at greater risk for trafficking are children who:
  - Run away, are homeless or "throwaway" youth.
  - Have a history of sexual abuse, physical abuse or neglect.
  - Have a history with juvenile justice or child protective services.
  - Identify as lesbian/gay/bisexual/transgender/questioning ([Greenbaum et al., 2015](#); [Macias-Konstantopoulos & Ma, 2017](#)).
- Possible signs of sexual exploitation and/or trafficking include ([Potter & Sharma, 2017](#)):
  - Sexually transmitted infections,
  - Anogenital trauma,
  - Unwanted and unplanned pregnancies,
  - Poor nutrition,

- Dental caries, broken or missing teeth,
- Strangulation or suffocation,
- Drowning,
- Substance use disorder, and
- Tattoos or brands.

## **IDENTIFICATION AND RESPONSE RESOURCES**

- Additional identification and response resources are available at: [www.HEALtrafficking.org](http://www.HEALtrafficking.org)
- A group of nurses with ED experience ([www.reclaim611.org](http://www.reclaim611.org)) has a 24-hour “help line” for professionals that can assist with navigating cases that present in hospital, clinic, etc.: 833-833-6611
- The National hotline also has a direct line for the DFPS Statewide intake (SWI) and they will do either a direct hand-off of a caller or send the information to SWI.
- If you or someone you know has been exploited, call the National Human Trafficking Hotline at 1-888-373-7888 or text HELP to 233-733 (BEFREE) to access help and services. Non-governmental / Confidential / 200+ Languages
- Report a tip about human trafficking or other potential criminal behavior to law enforcement at [iWatchTX.org](http://iWatchTX.org), by calling 1-844-643-2251 or by downloading the free iWatchTexas.app.

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

- Texas law ([Family Code §261.101](#) and [Human Resources Code §48.051](#)) mandates that anyone who suspects a child, a person 65 years or older or an adult with disabilities is being abused, neglected or exploited must report it to law enforcement or DFPS. A health care professional cannot delegate this responsibility to another individual.
- A person who reports abuse in good faith is immune from civil or criminal liability. DFPS keeps the name of the person making the report confidential. Anyone who fails to report suspected abuse can be held liable for a misdemeanor or felony.
- Call Texas Abuse Hotline toll-free 24 hours a day, 7 days a week, nationwide, or report with the secure website and get a response within 24 hours:
  - Phone: 1-800-252-5400
  - Online Report: [Texas Abuse Hotline](#)

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

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

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

- “The Texas Department of Family and Protective Services takes all forms of maltreatment seriously; however, there is a recognition that victims of human trafficking require different approaches to investigations and service provision than required by other forms of maltreatment.
- Therefore, in June 2017, DFPS established the Human Trafficking and Child Exploitation (HTCE) division to establish a systemic approach to human trafficking. The HTCE division supports the DFPS mission to promote safe and healthy families and protect children and vulnerable adults from abuse, neglect and exploitation, through the development of policy, practices and identification services that are:
  - Survivor informed,
  - Trauma responsive,
  - Person centered, and
  - Evidenced-based where possible.
- DFPS will investigate allegations of sex trafficking when the alleged perpetrator is a traditional caregiver, an adult living in the child/youth’s home, or when a child/youth in DFPS conservatorship is identified or suspected of being a victim of sex trafficking” ([DFPS, 2018](#)).

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

- CSE-IT helps professionals identify potential survivors of commercial sex trafficking for youth 10 years or older.
- For more information on [Westcoast Children's Clinic](#) (2016) or the CSE-IT.

## **NATIONAL HUMAN TRAFFICKING HOTLINE**

- Phone: (888) 373-7888
- [Online hotline](#)
- Toll-free 24-hour hotline:
  - Assists caller to connect to reporting agencies, if necessary.
  - Takes tips about potential human trafficking (sex and/or labor trafficking) situations.
  - Connects caller to referrals.

## POST-MORTEM CONSIDERATIONS

- **In Texas, the medical examiner or justice of the peace has jurisdiction over deceased individuals where the deaths are not natural, or cause of death is unknown ([Texas Code of Criminal Procedure §420](#)).**
- Medical Examiner's Office personnel must utilize the OAG approved SAEK.
- Post-mortem sexual assault examinations and evidence collection should be completed by forensically trained health care professionals ([DoJ, 2017](#)). Evidence collection from deceased individuals is under the jurisdiction of the Medical Examiner.
- Consider organ donation procurement.
- Timing limitations are irrelevant for deceased victims so samples should always be collected if sexual assault is considered ([DoJ, 2017](#)).
- All possible samples should be collected in the deceased victim ([DoJ, 2017](#)).

## DISCHARGE, FOLLOW-UP, AND ONGOING PATIENT CARE

### MEDICAL CARE KEY POINTS

1. Sexual assault is a health care issue and has potential health consequences, including but not limited to:
  - a) Risk for sexually transmitted infections (STI),
  - b) Unintended pregnancy,
  - c) Chronic pain,
  - d) Somatic disorders,
  - e) Behavioral changes that impact physical health such as substance use disorder, sexual dysfunction, and
  - f) Suicide.
2. It is critical to refer patients for follow-up care, including assessment of injuries from the assault, STD testing, hepatitis B and/or HPV initial or subsequent vaccinations and monitoring for HIV nPEP side effects.
3. Links to national protocols for adults and pediatrics:
  - a) [Adolescent/Adult](#)
  - b) [Pediatric](#)
4. [The biological evidence preservation handbook: Best practices for evidence handlers.](#)
5. The [Centers for Disease Control and Prevention](#) (CDC) recommends follow-up appointments:
  - a) Within 1–2 weeks post assault for STI testing if patients did not receive STI prophylaxis.
  - b) 1–2 months for patients who received STI prophylaxis.
  - c) 3 months, and 6 months for HIV testing.
6. Patients should repeat a pregnancy test at 3 weeks following the exam if they have not had any bleeding since the sexual assault examination, regardless of whether they received pregnancy prophylaxis.
7. Providers should strongly encourage appropriate follow-up medical care after the initial sexual assault assessment.

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

### **SEXUAL ASSAULT EVIDENCE TRACKING PROGRAM (TRACK-KIT)**

- Track-Kit is an online program that allows the survivor to track the status and location of the sexual assault evidence collection kit. The medical provider should give the patient the Track-Kit card which contains:
  - [The Track-Kit](#)
  - The unique Track-Kit barcode and
  - A temporary password which will allow the survivor to log in for the first time.
- The medical provider must enter the collection details into the statewide electronic tracking system not later than two business days after the date the examination is performed. ([Government Code Section 420.035 \(a\)](#)).
- For questions about Track-Kit, please contact STACS DNA at 855-239-0677 or [support@stacsdna.com](mailto:support@stacsdna.com). For more information about the Texas Sexual Assault Evidence Tracking Program, please visit the [DPS website](#).

## ADVOCACY KEY POINTS

- The presence of a sexual assault advocate (as defined by [Texas Government Code §420](#)) during the medical forensic examination is a crime victim's right in Texas.
- The sexual assault advocate is separate and distinct from the law enforcement or judicial victim advocate or liaison.
- The role of an advocate extends beyond the emergency department.
- The advocate connects patients who have been sexually assaulted and their non-offending support persons to resources.
- Virtual advocacy may be available.
- They provide options for comprehensive services available in the survivors' surrounding community and serve as a link to local systems a patient may encounter.
- This assistance is critical to the ongoing care and healing process.
- To locate the nearest rape crisis center, call the Rape, Abuse, Incest National Network (RAINN) hotline at 1-800-656-HOPE or utilize the crisis center locator via the [Texas Association Against Sexual Assault website](#).
- To locate your nearest children's advocacy center (CAC), utilize the [CAC](#) search.

## COUNSELING KEY POINTS

- Sexual assault is a traumatic event that may include, but is not limited to, depression, anxiety, substance use disorder, suicidal thoughts, and post-traumatic stress disorder (PTSD).
- Sexual assault advocates will connect patients to specialized sexual assault counseling as needed.
- It is critical to refer patients to resources that specialize in sexual assault counseling.
- Sexual assault advocates can provide verbal and written information about 24-hour sexual assault advocacy resources.
- Consider contacting patients, with their written permission, 2–3 days following the initial examination to assess their mental health and remind them of advocacy services.
- The presence of a trained sexual assault advocate at the time of the medical forensic assessment will make it easier for patients to contact advocacy services.

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

- Health care providers are mandated to give patients the [Information Sheet for Sexual Assault Patients](#), available in Spanish and English.
- If a facility is not “SAFE-ready,” health care providers are required to give sexual assault patients the following form ([Texas Health and Human Services, 2018](#)).
  - Available in [Spanish and English](#) (at the bottom of the web page).

## **Appendix A**

### **TEXAS CRIME VICTIMS' BILL OF RIGHTS**

Victims of crime in Texas are afforded certain rights under Texas law. These rights include the right to protection, information, notification, to be heard, to participate in the criminal justice system, and to seek financial remedies.

- [Texas Crime Victims' Bill of Rights](#)

## Appendix B

### CRIME VICTIMS' COMPENSATION

- [Crime Victims' Compensation](#) (CVC) is a state function.
- Email: [crimevictims@oag.texas.gov](mailto:crimevictims@oag.texas.gov)
- Telephone: (800) 983-9933 or (512) 936-1200 (in Austin).

## Appendix C

### NURSING CONCERNS FOR PATIENTS WHO REPORT SEXUAL ASSAULT

#### Nursing Concerns for Sexual Assault

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Concerns for:

- Anxiety
- Impaired comfort
- Ineffective coping
- Compromised family coping
- Interrupted family processes
- Decisional conflict
- Fatigue
- Fear
- Hopelessness
- Risk for compromised human dignity
- Disturbed personal identity
- Insomnia
- Deficient knowledge
- Impaired memory
- Moral distress
- Nausea
- Imbalanced nutrition
- Acute pain
- Powerlessness
- Potential for pregnancy
- Ineffective relationship
- Death anxiety
- Risk for impaired attachment
- Risk for bleeding
- Disturbed body image
- Risk for caregiver role strain
- Ineffective denial
- Impaired resilience
- Risk for impaired resilience
- Risk for trauma
- Impaired religiosity
- Impaired individual resilience
- Ineffective role performance
- Potential for sexually transmitted infectio
- Rape trauma syndrome
- Situational low self-esteem
- Self-mutilation
- Self-neglect
- Sexual dysfunction
- Ineffective sexuality pattern
- Impaired skin integrity
- Disturbed sleep pattern
- Impaired social interaction
- Social isolation
- Spiritual distress
- Stress overload
- Risk for suicide
- Impaired tissue integrity
- Impaired urinary elimination
- Risk for other-directed violence
- Risk for delayed development
- Labile emotional control
- Dysfunctional family processes
- Interrupted family processes
- Grieving
- Compromised grieving
- Risk for compromised grieving
- Risk-prone health behaviors
- Post-trauma syndrome
- Risk for post-trauma syndrome

([Ackley, et al., 2022](#))

## Appendix D

### EMERGENCY PREPAREDNESS PLAN FOR REDUCED SEXUAL ASSAULT EVIDENCE COLLECTION KIT STOCK

**Purpose:** The purpose of this plan is to provide guidance in case of a *reduction in the availability of sexual assault evidence kits (SAEK) related to supply chain issues*. Recent events, including the COVID-19 health crisis, have impacted SAEK vendor ability to maintain production levels to fill current and future orders for SAEKs. The following are suggested guidelines for creating non-vendor SAEKs during circumstances when vendor production is low. Forensic/SANE programs should implement this plan when SAEKs are on back-order where there is large disruption in the supply chain.

The Texas Office of the Attorney General has approved the following guidelines and non-standard kit specifications. **This Emergency Preparedness Plan does not supersede other guidance provided by the Texas Evidence Collection Protocol for health care professionals in Texas providing forensic medical assessments of persons who present with concern for, or history of, sexual victimization, or for assessment of those who are suspected of committing sexual offenses.**

#### **Suggested Guidelines:**

When notified by the vendor of a backlog or production impact, the following are recommendations for creating temporary SAEKs.

- Contact Texas DPS via email at: [kittracking@dps.texas.gov](mailto:kittracking@dps.texas.gov) to request Track-Kit barcodes/survivor cards. Barcodes/survivor cards will be shipped via FedEx to the SANE coordinator. Allow at least 48 hours for the barcodes/survivor cards to be received by the SANE program and/or hospital.
- The [SAEK forms and body diagrams](#) are available online.
- Kits may be made with unused envelopes and supplies from vendor-supplied kits (this applies to programs that save the unused envelopes and swabs). If unused envelopes from vendor supplied kits are used, please ensure that any pre-printed labels on the envelopes correspond to what is collected and placed within the envelope. If the pre-printed label does not match the collection, strike through the pre-printed label, and label the envelope to correspond with the contents.

SANEs and other providers may make a non-standard kit using the following supplies: 9x12 manila envelope—one per case to hold all evidence envelopes and the SAEK paperwork; A small shipping box may be used instead for transport to further protect the specimens. Use of a shipping box is strongly recommended for transporting all specimens

- Additional 9x12 envelope or small shipping box to hold any clothing items collected.
- 4-1/8 x 9-1/2 inches white or manila envelopes—multiple envelopes per case will be needed and should be used to individually place specimens. It is recommended to have a minimum of eight (8) envelopes available per each kit that is made.
- If blood cards are used for known DNA sample, consider purchasing a small amount separately to have on hand.
- Sterile swabs that come in swab sleeves (may be obtained from hospital central supply or ordered from a medical supply company).
- Swab drying boxes or place the swabs back in the original sterile packaging/sleeve after collecting. Swab drying boxes may be purchased in bulk from evidence supply vendors. When used, each should be clearly labeled as to the patient and collection site.
- Evidence tape to seal all envelopes and boxes containing evidence.
- Newly purchased plastic combs.
- Tissue-type paper/disposable task wipes to clean work area before and after the examination may be obtained from hospital center supply or ordered from a medical supply company.
- Small wax-lined bags are available for purchase through online vendors.

Once specimens are collected, the following are recommendations:

- Follow Texas Evidence Collection Protocol for guidance related to packaging of specimens.
- Place all specimen envelopes in the transport container (large manila envelope or shipping box). Use of a shipping box is strongly recommended for transporting all specimens.
- Place paper bags containing clothing items in a separate transport container. Do not place clothing (i.e., bras or panties) in the manila envelopes as the envelopes may tear.
- Affix a patient label on all envelopes and transport containers.
- Place a tracking barcode on all specimen envelopes/containers.
- Place chain-of-custody labels on the transport box and any additional bags or containers.

The next page is an example of a chain-of-custody label that may be printed on label paper. Personnel may create their own chain-of-custody label. However, the label must contain all the information below. Follow all current program policies and procedures related to chain of custody. See Texas Evidence Collection Protocol for additional information and guidance.

Name of Patient: \_\_\_\_\_

Law Enforcement Agency/Case Number: \_\_\_\_\_

Name of Facility: \_\_\_\_\_

Name of Examiner: \_\_\_\_\_

Date of Examination: \_\_\_\_\_

**Evidence Release:**

Released by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Received by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Released by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Received by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Released by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Received by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Released by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Received by: \_\_\_\_\_ Date/Time: \_\_\_\_\_

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