

Colorado Suspect/Perpetrator Evidence Collection Protocol

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For information or questions, please call the
Colorado SANE/SAFE Program at (719) 365-8345.

www.uchealth.org/sane-safe

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Overview

During the investigation of sexual assault, a potential suspect may be identified. The investigating law enforcement agency may request that evidence be collected from the suspect or perpetrator. The recommended kit for suspect evidence collection is CMS 100 manufactured by Sirchie Fingerprint Laboratories, Inc. 1-800-356-7311. Do not collect any samples which may violate a court order, the suspect's consent or the exigent circumstances.

Ways Evidence Can Be Collected

There are three ways in which evidence can be collected from a suspect:

41:1 / Search Warrant

A Court Order for Non-Testimonial Identification (41.1 Order) or Search Warrant may be obtained by a law enforcement officer from a judge or magistrate. The court order or search warrant will be signed and dated by a judge, ordering the suspect to undergo forensic evidence collection. The law enforcement officer will present a copy of the face of the court order or search warrant, documenting the person to be searched and what the judge or magistrate authorized to be collected during the examination. The search warrant may be accompanied by a copy of an attachment that documents what the signing judge or magistrate has authorized to be collected during the examination.

Collect only those items authorized by the signing judge or magistrate.

Specific details regarding 41.1 orders are located in Rule 41.1 of Colorado Revised Statutes.

Specific details regarding search warrants are located in Colorado Revised Statute #16-3-301 through #16-3-306.

Exigent Circumstances

A law enforcement officer may request forensic evidence collection from a suspect when the officer believes exigent circumstances exist that prevent an officer from obtaining a court order prior to the destruction or manipulation of evidence on a suspect's body. Notification will be given by the requesting officer that exigent circumstances exist necessitating the completion of an examination without the suspect's consent or a court order/41.1 order/search warrant.

Consent

A suspect may consent to undergo a forensic medical examination without a court order, 41.1 order/search warrant, or exigent circumstances. In this instance, the suspect may stop the examination at any time. If a suspect requests to stop an examination, consult with the present law enforcement officer to determine whether the officer has or will seek a court order, 41.1 order/search warrant, or exigent circumstances to continue the examination.

The attending law enforcement officer may have a signed consent waiver from the suspect. If so, medical staff should request a copy of the signed waiver to include with the suspect's medical records.

Collecting and Packaging Evidence

STEP 1: CLOTHING

Clothing frequently contains the most important evidence in a case of sexual assault. The reasons for this are two-fold:

- Clothing provides a surface upon which traces of foreign matter may be found, such as semen, saliva, blood, hairs, and fibers, as well as debris from the crime scene. While foreign matter can be washed off or worn off the body, the same substances often may be found intact on clothing for a considerable length of time following the assault.
- Damaged or torn clothing may be significant. It may be evidence of force and can also provide laboratory standards for comparing trace evidence from the clothing of the patient with trace evidence collected from the suspect and/or the crime scene. In the process of criminal activity, different garments may have made contact with different surfaces and debris from both the crime scene and the victim. Keeping garments separate from one another permits the forensic scientist to reach certain pertinent conclusions regarding reconstruction of criminal actions. Therefore, each garment should be placed separately in its own paper bag to prevent cross-contamination.

Clothing Collection Procedure

The clothing should be collected and packaged in accordance with the following procedures:

- Each facility should obtain paper evidence bags from local law enforcement authority or evidence supply stores as these are not included in the evidence collection kits.
- Utilize the two paper drapes that come in the kit. Place the first drape down on the floor - this will later be discarded as it may pick up trace from your facility floor. Place the second paper drape on top of the first drape and this is where the suspect will stand and disrobe. If trace falls off while disrobing, the top drape will collect the trace. The drape the suspect stands on should be collected whether you see visible trace or not. To collect the drape, utilize a pharmacy fold and include it in its own paper bag. Discard the bottom drape.
- After air-drying items when necessary, appropriate articles of clothing should be put into individual paper bags. Whenever possible, any wet stains should be allowed to air dry before being placed into paper bags. It is preferable that each piece of clothing

be folded inward, placing a piece of paper against any stain, so that the stains are not in contact with the bag or other parts of the clothing. Label and seal each paper bag.

- If, after air drying as much as possible, moisture is still present on the clothing and might leak through the paper bag, the labeled and sealed clothing bags should be placed inside a larger plastic bag with the top of the plastic bag left open. In these instances, a label should be affixed to the outside of the plastic bag which will alert law enforcement that wet evidence is present inside the plastic bag. This will enable law enforcement to remove the clothing and avoid loss of evidence due to putrefaction.

STEP 2. TRACE EVIDENCE

When collecting evidence from a suspect, there may be material or fibers that are found related to the assault. This is identified as trace evidence. These materials can help to corroborate circumstances and provide evidence beyond DNA. As with all steps, be sure to wear gloves in the collection of trace evidence, changing between samples. Place any hairs, fibers, or other materials in the bindle provided. Fold the bindle to contain the trace evidence and return the bindle to the envelope. Seal and fill out all information requested on the envelope.

STEP 3. DIGIT SWAB

Digit swabs may be indicated in suspect evidence collection for a variety of reasons, one of which may be digital penetration of a victim. To collect digit swabs, use two swabs moistened with sterile water/saline, and thoroughly swab all digits on both hands to remove possible vaginal or other body fluids from the victim. Allow the swabs to air dry. Place both swabs in the envelope, seal and return kit.

STEP 4. PUBIC HAIR COMBING

Pubic hair can retain trace evidence from a sexual assault. For this reason, collection of pubic hair combings may be beneficial. Place the bindle under the suspect's pubic area/buttocks and run the provided comb through the pubic hair, collecting any foreign material that falls out into the bindle. The comb and bindle should be packaged and sent even if there is not visible debris or material. Seal and fill out all information requested on the envelope. Where there is evidence of semen or other matted material on pubic hair, it may be collected in the same manner as other dried fluids. The swab should be placed in a small paper envelope and labeled "possible fluid sample from pubic hair."

STEP 5. PENILE SWABS

The presence of saliva on the penis could indicate that oral-genital contact was made; the presence of vaginal fluids could help corroborate that the penis was introduced into a vaginal orifice; and feces or lubricants might be found if rectal penetration occurred. The proper method of swabbing the penis is to slightly moisten the two swabs provided with sterile water/saline, and thoroughly swab the external surfaces of the penile shaft and glans. All outer areas of the penis and scrotum where contact is suspected should be swabbed. Allow all swabs to air dry. Place both swabs in the envelope, seal and return kit. Care should be taken to avoid the urethral meatus.

STEP 6. FOREIGN STAINS ON BODY

Body fluids, such as saliva, semen and vaginal fluids, may be analyzed by laboratories. If fluids, such as saliva, seminal fluid and dried blood, are observed on the suspect's body, the material should be collected using a set of two swabs. A different set of two swabs should be used for every fluid collected from each location on the body. Dried fluids are collected by dampening the swabs with sterile water/saline and swabbing the indicated area. After allowing the swabs to air dry, it should be returned to the envelope provided. In the event multiple sites require collection, the examiner should obtain additional swabs and envelopes from the hospital supply and label accordingly. Seal and fill out all information requested on the envelope.

STEP 7. FINGERNAIL CLIPPINGS/SCRAPINGS

Fingernail clippings may contain skin cells of the victim and are simple to collect. Use the clippers from kit and the nurse or suspect may cut the fingernails onto the enclosed bindle. Nails from both hands should be included. When finished, close the clippers and include them in the bindle. Close the bindle and place in the envelope, filling out all the requested information. If a suspect has very short nails or declines having nails cut, a swab collection may be used. This is accomplished by moistening one swab with sterile water/saline and then swabbing underneath each of the 10 fingernails. Only one swab is used. The swab is then air-dried and placed in envelope. Additionally, fingernail scrapings can be collected by using the handle of a swab. Scrape under each nail. Include the swab handle in the bindle. Seal and fill out all information requested on the envelope.

STEP 8. BUCCAL SWABS

The purpose of collecting DNA Sample/Buccal Swabs is to determine the suspect's DNA profile. Prior to collection of the buccal swabs, have the suspect rinse his/her mouth and wait 30 minutes before collecting the samples. Swab the inner aspects of both cheeks with both swabs until moistened. Allow both swabs to dry. Place swabs in the appropriate envelope. Seal and fill out all information requested on the envelope.

STEP 9. ADDITIONAL ENVELOPE

One additional envelope is included in the Colorado kit. Use clinical discretion as to whether it is a needed evidence collection component or not. **Do not collect any samples which may violate a court order/search warrant, the suspect's consent or the exigent circumstances.** This will vary based on the history and circumstances of the assault.

Each additional sample should be packaged in its own separate envelope. Seal and fill out all information as requested on the additional envelope. When more envelopes are needed than are provided in the kit, hospital envelopes or saved envelopes from other evidence collection kits may be used.

Blood Samples

In the event blood samples are indicated, verification of the reason for collection is necessary; this determines which collection tube will be used. Blood samples may be used for DNA testing or for toxicological evaluation. Although blood samples are no longer the standard to determine a DNA profile, it is still sometimes requested for this purpose. In this instance, a blood sample should be obtained per facility guidelines. The sample should be collected in a red top tube (no preservatives) or a red/gold top lab tube (serum gel preservative). A blood sample may also be requested for toxicology testing. The sample should be obtained per facility guidelines and collected in a gray top tube (sodium fluoride/potassium oxalate preservatives). Keep in mind, alcohol wipes should not be used when drawing toxicology samples as it may impact the results.

Photography

Photographs may be requested or necessary during evidence collection. The requests should be specific, such as injuries, tattoos or scars. If the legal request for photographs is not specific, the attending law enforcement officer or detective can provide information on what areas of the body need to be photographed.

If completed pursuant to a court order/search warrant, the order should detail what specific photographs are authorized. If the authorization on the order is generic, consult with the attending law enforcement officer to determine what needs to be photographed.

Special Considerations

Special considerations must be taken when collecting evidence from a suspect. These considerations may vary, depending on the site. Evidence may be collected at the hospital, jail, prison or other locations. Always have at least one law enforcement officer in the room at all times when collecting evidence, to ensure safety. Suspects may or may not be restrained during the evidence collection process. When conducting suspect evidence collection at the hospital or another facility, refer to the facility guidelines for any additional instructions.

In the event a court order/search warrant is issued, be sure to read it thoroughly and collect only what is indicated. Maintain a copy for your records. In the event the suspect is giving consent for evidence collection, be sure to have him or her sign in the appropriate place on the Authorization for Collection and Release of Information to Law Enforcement form (See Appendix A), as well as any additional facility forms. The law enforcement officer present should also sign in the appropriate place on the Authorization for Collection and Release of Information to Law Enforcement form, as well as any additional facility forms.

If the facility has the capability to document on a body diagram any injuries and/or other body surface area findings, the Anatomical Drawings form (See Appendix B) may be disregarded. Please complete this form if other documentation is unavailable.

In the event that pubic or head hair standard evidence is requested by court order, please utilize the following guidelines:

Public Hair Standard

Pubic hair standards are a pulled sample of the suspect's pubic hair (a minimum of 30 hairs). Pull pubic hair samples from multiple locations using only gloved hands. Do not use tweezers as they may damage the hair shaft. Do not cut hair for the sample. Place collected hairs in the bindle and envelope provided. Seal and fill out all information requested on the envelope.

Head Hair Standard

Head hair standards are a pulled sample of the suspect's head hair (a minimum of 30 hairs). Pull a minimum of 30 head hair samples from multiple locations using only gloved hands. Do not use tweezers as they may damage the hair shaft. Do not cut hair for the sample. Place collected hairs in the bindle and envelope provided. Seal and fill out all information requested on the envelope.

Appendix 1

Authorization for Collection and Release of Information to Law Enforcement

See form on next page.

Authorization for Collection and Release of Information to Law Enforcement

Suspect's Name: _____

Date and Time of Collection: _____ am/pm

Requesting Agency: _____ Agency Case # _____

Date of Offense: _____

Location of Exam (Name of Facility): _____

Examiner: _____
Print Name/Credentials Signature

Requesting Officer: _____
Print Name/Credentials Signature

Items to be collected in this kit: (may attach copy of court order, if applicable)

- | | |
|----------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Clothing | <input type="checkbox"/> Foreign stains |
| <input type="checkbox"/> Trace evidence | <input type="checkbox"/> Fingernail clippings/scrapings |
| <input type="checkbox"/> Digit swabs | <input type="checkbox"/> Buccal swabs |
| <input type="checkbox"/> Pubic hair combings | <input type="checkbox"/> Head hair standard |
| <input type="checkbox"/> Pubic hair standard | <input type="checkbox"/> Penile swabs |
| <input type="checkbox"/> Photography | <input type="checkbox"/> Blood sample: <input type="checkbox"/> DNA |
| <input type="checkbox"/> Additional envelope _____ | <input type="checkbox"/> Toxicology |

Items in this kit are collected according to: (check appropriate box)

- Court order/41.1/Search warrant Exigent circumstances as indicated by the officer Consent
(fill out the information below)

After having been informed of my right not to have biological evidence taken from me without a court order, I do hereby consent to the collection of the above listed items and examination of these items by law enforcement.

Suspect Signature

Suspect Printed Name

Witness Signature

Witness Printed Name/Title

Date

A Spanish version of this document is enclosed in this kit. If any other language is required, have interpreter fill out portion below.

Interpreter Signature

Interpreter Printed Name/Title

Language: _____

Date

white copy---enclose with kit

yellow copy---law enforcement

pink copy---examiner

CMS1030

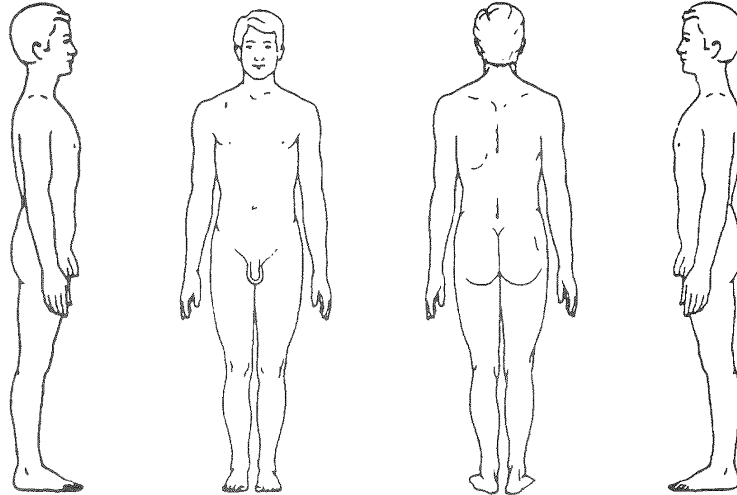
Appendix 2

Suspect Kit Anatomical Diagram

Note: In the event that the suspect is female, please indicate on provided form or include separate female body diagram for documentation.

See form on next page.

ANATOMICAL DRAWINGS



Using the appropriate drawing(s), note and number all scars, tattoos, bruises, scratches, lacerations, bite marks, etc.; then number and describe below.

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

ITEM NO.: _____

Is Penis Circumcised? YES NO
Photographs Taken? YES NO

Suspect's Name: _____

Date Examined: _____ Time: _____ am/pm

Examined By: _____
(SIGNATURE)