Colorado Sexual Assault Evidence Collection Protocol

Recommendations for healthcare providers responsible for conducting the medical forensic examination of pediatric, adolescent and adult sexual assault victims on the identification, collection and preservation of physical and biological evidence.

Second Edition | 2015

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

https://www.uchealth.org/professionals/Pages/Colorado-State-SANE-SAFE-Project.aspx

Contents

The Colorado Sexual Assault and Nurse Examiner Advisory Board 1

Definitions 2

Overview 5

Purpose 6

Colorado's Sexual Assault and Related Laws 7

Other Relevant Statutes 7

Patient-Centered, Trauma-Informed Care 8

Crisis Center Advocacy 10

Patient Options for Evidence Collection and Reporting to Law Enforcement 10

Law Enforcement Reporting with Evidence Collection 11

Medical Reporting with Evidence Collection 11

Anonymous Reporting with Evidence Collection 11

Timing Considerations 12

Collecting and Packaging Evidence 13

Chain of Custody 13

Swab and Smear Collection Procedure 14

Colorado Sexual Assault Consent and Information Form 15

Colorado Sexual Assault Anonymous Report Consent and Information Form 15

Sexual Assault Incident Form 16

Collection Steps 16

Step 1: Clothing 16

Step 2: Trace Evidence 18

Step 3: Oral Swabs and Smear 18

Step 4: Foreign Stains on Body Swabs 18

Step 5: External Genital Swabs 19

Step 6: Pubic Hair Combings 20

Step 7: Pubic Hair Standard 20

Step 8: Head Hair Standard 20

Step 9: Anal Swabs and Smear 21
Step 10: Vaginal/Penile Swabs and Smear 21
Step 11: Cervical Swabs and Smear 22
Step 12: Fingernail Clippings/Swabbings 23
Step 13: Buccal Swabs 23
Step 14: Additional Evidence 23

Bibiliography 24

Appendices

Appendix 1: How to Order Evidence Collection Kits 25
Appendix 2: Payment for Exams 26
Appendix 3: Evidence Collection Kit Forms 29
Appendix 4: HIPAA 37
Appendix 5: Photographs 38
Appendix 6: Drug or Alcohol Facilitated Sexual Assault 39
Appendix 7: Strangulation Assessment Tool 41

The Colorado Sexual Assault and Nurse Examiner Advisory Board

Co-Chair: Megan Lechner, MSN, RN, CNS, SANE-A, SANE-P
CO SANE/SAFE Project Director
Memorial Hospital, University of Colorado Health

Co-Chair: Terri Livermore
Sexual Assault Response Project Director
Colorado Division of Criminal Justice

Megan Alstatt, MCJ
Corporal
Garfield County Sheriff's Office

Elyse Diewald, RN, BSN, SANE-A
SANE Program Coordinator
Medical Center of the Rockies

Sean Finn
Chief Trial Deputy
District Attorney, 20th Judicial District

Linda Johnston
Ending Violence Against Women Project Director
Colorado District Attorney's Council

Jenifer Markowitz, TN, WHNP, SANE-A
CO SANE/SAFE Project Consultant
Memorial Hospital, University of Colorado Health

Jennifer McConnell, BSN, SANE-A, SANE-P, FNE
SANE Program Coordinator
St. Anthony Summit Medical Center

Karen Moldovan
Director of Advocacy and Policy,
Colorado Coalition Against Sexual Assault

Sheri Murphy
Agent in Charge
Colorado Bureau of Investigation

Kim Nash, BSN, RN, SANE-A, SANE-P
CO SANE/SAFE Project Trainer
Memorial Hospital, University of Colorado Health

Adrian Van Nice
Chief Trial Deputy
District Attorney, 20th Judicial District

Special thanks to Jennifer Pierce-Weeks, RN, SANE-A, SANE-P, for her significant contributions to this document.

Definitions

Acute Examination: A medical forensic sexual assault examination that occurs within five days of the sexual assault in the adolescent/adult patient population, and within 72 hours of the assault in the prepubertal patient population.

Adolescent/Adult Population: Female patients who have reached the onset of menses or higher in sexual development, male patients who have reached Tanner Stage 3 of Sexual Maturity or higher.

Advocate – Community-based: Community advocates often work at a confidential rape crisis center or a dual domestic violence and rape crisis program. Many community-based advocacy programs offer medical forensic exam accompaniment, support groups, counseling, case management, legal advocacy, and therapy. These services are provided by professionals who understand sexual violence and victim dynamics, and can address the long-term needs of the victim with expertise. Community-based advocates can provide assistance and resources for both medical reporting victims and law enforcement reporting victims. C.R.S. § 13-90-107(k)(II) applies to community-based advocates, therefore this type of advocacy services are confidential. Advocacy services are typically offered at no cost to the victim. Unfortunately every community does not have this type of program. To learn more about what is available in your area, please visit www.ccasa.org.

Advocate – Law Enforcement: System-based advocates are employed by a public agency such as a law enforcement agency, office of the prosecuting attorney, or some other entity within the city, county, state, or federal government. When a sexual assault is investigated by law enforcement, the victim should be assigned a victim advocate who is located within that investigatory office. This advocate can provide emotional support, assist the victim in applying for crime victim compensation, attend relevant hearings and keeping the victim notified about the status of the case. System-based Advocates are not covered under C.R.S. § 13-90-107(k)(II). This means anything a victim says to or in front of a system-based advocate is not legally confidential.

Anonymous Report: The type of report a sexual assault victim makes while obtaining a medical forensic exam and choosing not to participate in the criminal justice system and not to provide any personally identifying information to law enforcement. Evidence and information is released to law enforcement, but without victim identifying information. An anonymous reporting victim consents only to evidence storage.

Certification: The International Association of Forensic Nurses (IAFN) offers national board certification for Registered Nurses in both Adult/Adolescent and Pediatric SANE practice. Full information regarding certification can be found at the following link https://iafn.site-ym.com/?page=Certification. It is important to understand that practice as a SANE is the

foundation upon which certification is built, so nurses should expect to practice for at least a year prior to sitting for board certification. Certification is not necessary to practice.

Law Enforcement Report: The type of report a sexual assault victim makes who chooses to participate in the criminal justice system.

Medical Forensic Examination: A medical evaluation of the sexually assaulted patient that includes a history, physical examination, injury identification, documentation, risk assessment and treatment as well as resources and referrals. This examination may occur with or without evidence collection.

Medical Forensic Exam Program (MFEP): A healthcare program with appropriately licensed medical professionals (registered nurses, nurse practitioners, physician assistants and physicians) who have received some specialized training in conducting the medical forensic examination of adults and adolescents according to established Colorado protocols, but have not received SAFE/SANE training. Medical Forensic Exam Programs can be based in hospitals, medical clinics, safe houses, children's advocacy centers, stand-alone medical forensic exam clinics, public health clinics, or any other facility where it is appropriate to provide medical care to sexual assault victims.

Medical Report: The type of report a sexual assault victim makes while obtaining a medical forensic exam and choosing not to participate in the criminal justice system, but does provide personally identifying information to law enforcement. Evidence and information is released to law enforcement with victim identifying information. A medical reporting victim can choose to have evidence tested.

Non-Acute Examination: A medical/forensic sexual assault examination that occurs more than five days after the assault in the adolescent/adult patient population, and after 72 hours in the prepubescent patient population.

Prepubescent Population: Female patients who have not yet reached the onset of menses and male patients who have not yet reached Tanner Stage 3 of Sexual Maturation.

Sexual Assault Forensic Examiner: A Registered Nurse, Physician Assistant or Physician who has been specially trained to provide comprehensive sexual assault care, including evidence collection and testimony, in keeping with the International Association of Forensic Nurses SANE Education Guidelines (2013).

Sexual Assault Nurse Examiner: A Registered Nurse (including advanced practice nurses) who has been specially trained to provide comprehensive sexual assault care, including evidence collection and testimony, in keeping with the International Association of Forensic Nurses SANE Education Guidelines (2013).

SANE/SAFE Program: Healthcare based programs staffed by trained SANEs/SAFEs that offer a victim centered response to sexual assault care. Ideally, these programs have 24/7 coverage, but this is not required. SANE/SAFE programs may be based in a hospital, medical clinic, safe house, children's advocacy center or as a stand-alone clinic.

Victim/Witness Coordinator: If the case is filed, an advocate from the District Attorney's Victim/Witness Office (often called a Victim/Witness Coordinator) is typically assigned to the case. This person helps explain the legal process to the victim and provides support and assistance. He/she can answer questions, dispense information, assure that the victim's input is considered in the case, provide assistance during the trial, and act as the main point of contact between the victim and the prosecuting attorney. Victim/Witness Coordinators, as well as the other types of advocates, should all be able to help the victim and family understand if they may be eligible for Victim Compensation.

Overview

To maximize the continuity of care for patients who have experienced sexual assault, health care professionals, in concert with other disciplines who are part of the multidisciplinary response to sexual assault in Colorado, have developed the following approach to assist Colorado's medical community in the care of patients who have experienced sexual assault.

Purpose

Modeled after national best practices (US Department of Justice Office on Violence Against Women, 2013), the purpose of this protocol is to assist providers with the consistent and complete collection of the sexual assault evidence collection kit, which is one part of a comprehensive medical forensic response to sexual assault patients. While it is up to each patient to determine whether she or he wants evidence collection completed, when it is done it can be an important piece in the criminal justice response, and therefore must be done in a manner that ensures meeting the necessary standards for use in the investigation and possible legal proceedings that may occur.

While the goal of this evidence collection protocol is to provide consistency in the process, providers must recognize that there will be occasions when certain specimens may not be collected, where the order of collection may differ from the kit's instructions, or where other deviations from this protocol prove unavoidable. Because patient care is individualized and evidence-based in nature, the procedures contained in this document may be altered to fulfill the scope of a particular patient's consent, care requirements and concerns. Accommodation is appropriate and the clinical rationale should be well documented in the medical forensic record.

As with all other aspects of the medical forensic exam, the collection of evidence should occur in a manner that is patient-centered, preserving patient autonomy and dignity throughout the process. It is equally important to understand there are significant acute and long-term health consequences associated with sexual assault, regardless of whether a patient requests evidence collection. Therefore, every patient should be offered an evaluation.

The protocol contained within this document is meant to be utilized by health care providers in Colorado who care for the patient who reports, or is suspected of having experienced, a sexual assault.

Colorado's Sexual Assault and Related Laws

Colorado statutes prohibiting sexual assault are contained in the criminal code under C.R.S. §18-3-401-18-3-405.6, Sexual offenses against the person. Copies of the full statute may be found at http://www.lexisnexis.com/hottopics/Colorado/.

Other Relevant Statutes

Other statutes regulating sexual activity or of interest relative to sexual assault or abuse include:

- C.R.S. §18-3-407.5 Forensic examination cost
- C.R.S. §18-3-404.7 Sexual assault emergency payment program
- C.R.S. §12-36-135 Injuries to be reported
- C.R.S. §19-3-304 Persons required to report child abuse
- C.R.S. §13-90-107 Who may not testify without consent
- C.R.S. §24-33.5-113 Forensic medical evidence in sexual assault cases
- C.R.S. §18-1-901(3)(p) Definition of serious bodily injury
- C.R.S. §13-22-103 Minors – consent for medical care
- C.R.S. §18-6.5-108 Mandatory reports of abuse and exploitation of at-risk elders

Patient-Centered, Trauma-Informed Care

Medical providers may be the first contact that a victim has after being sexually assaulted. As such, it is crucial that the response the victim receives be nonjudgmental, supportive, and informed to ensure that they do not experience further trauma. An appropriate response by the hospital and/or medical staff may positively affect the long-term recovery of victims (Campbell, 2004). Below are some suggestions for responding appropriately to the needs of sexual assault victims in a hospital setting (New Hampshire Department of Justice Office of the Attorney General, 2011).

- Be aware that some patients may have had previous negative experiences with medical personnel, and may be wary of how they will be treated now.
- In order to prevent making incorrect assumptions, nothing about the patient's life or the nature of the assault should be assumed. This is especially true for assuming the sexual orientation of either the patient or the offender.
- Experiencing a sexual assault is, in many ways, the ultimate loss of control for patients. For this, and other reasons, it is imperative that the patient be informed about the medical process, and every effort should be made to give a sense of control back to the patient. Care should be taken to explain each step of the medical process, and the patient should be allowed to ask questions and make decisions about the care they are receiving. The provider should respect patient choices.
- It is important to note that offenders can often be family members or caretaker/service providers, especially in child abuse and elderly/incapacitated adult abuse cases. There may also be times where the offender presents as the "secondary victim" or "helping friend." Professionals need to be aware of this so the patient does not experience re-victimization, or have their decisions unduly influenced by the unwanted presence of this individual. Always ask the victim (without anyone else present) who he or she would like to have in the exam room and be sure to respect their decision.
- Every effort should be made by the medical personnel to assist and facilitate communication with the victim. Victims may have difficulty communicating for a number of reasons including: shock from having experienced trauma, having been drugged, not speaking English, being hearing impaired, having a cognitive defect or impaired or reduced mental capacity that makes it difficult to comprehend questions, or they may not possess the language and communication skills necessary to explain what has happened to them.

- Medical providers are expected to make every possible effort to clearly and effectively communicate at a level that is appropriate and commensurate with the victim's ability.
- Feelings of guilt and shame, and that the victim somehow 'caused' the assault are common victim responses. These feelings can be especially strong in cases where alcohol was involved, or when a male is the victim of an assault. Victims may feel ashamed that they were unable to protect themselves from the assault and/or confused if they experienced an involuntary physiological response to the assault. It is important that the patients be reassured that the assault was not their fault and whatever they did to survive the assault was the right thing to do.
- It is important to recognize that sexual assault affects everyone involved with the primary victim of the crime. The family and friends of the sexual assault patient are also, in many ways, secondary victims of the sexual assault and may experience feelings similar to those of the actual victim. It is important to recognize that this population may need assistance as well, and to help them access the resources available at the local crisis center. These secondary victims are usually able to better support and respond to the needs of the primary victim when they themselves are receiving information, support and services.
- Certain patients may be hesitant to receive care, out of fear they will get in trouble due to their conduct before or after the assault. This may be a particular concern for victims who fear deportation and/or the adolescent population where underage drinking, drug consumption and "sneaking out" or lying to their parents/caregivers may have occurred. It is important to reassure patients that any decision or choice they made does not mean they deserved to be sexually assaulted.
- In hospitals that provide Sexual Assault Nurse/Forensic Examiner (SANE/SAFE) services, the examiner should be notified as soon as the patient presents at the emergency room, and whether the patient is opting for evidence collection.
- Regardless of who will complete the medical forensic evaluation, all the available options should be reviewed with the patient. Whenever possible, the patient's decision should be carried out by health care providers.

Because the health care provider is responsible for evidence collection in the sexually assaulted patient, it is critical they understand the impact sexual violence has on the patient. Sexual assault is a traumatic event, and as such, trauma-informed care must be the top priority of the provider. In all cases, providers should minimize any traumatic aspects of the evaluation, provide support, resources, referrals and information, address any distress or safety concerns expressed by the patient and offer the guidance of effective coping strategies.

Crisis Center Advocacy

All patients should have access to a support person of their choosing during the examination. Ideally, this would be a community-based victim advocate offered in-person to the patient upon arrival (IAFN, 2008). Having an advocate physically on site to introduce to the patient is more effective than offering an advocate verbally to a patient or giving the patient a hotline number. This improves the likelihood of the patient understanding and accessing available services. Community-based crisis center advocates are specially trained to provide patients with free, confidential, non- judgmental, emotional support, information, and resources so patients can make informed decisions about their care following a sexual assault. The role of the advocate at the hospital is to support the patient during the medical exam and to help the patient understand the process and options that are available to them.

Patients may choose to have another individual, such as a family member or friend in the exam room instead of an advocate, or in conjunction with an advocate. While the number of people in the room should be limited, it should not be at the expense of the patient's comfort and well-being. Therefore, during the exam the people in the room with the patient may include the examining clinician(s), the patient's chosen support person and, if needed, a translator. Care should be taken to avoid allowing anyone in the exam room who may be the offender (i.e. spouse, parent, etc.). It is best practice to avoid having law enforcement or law enforcement advocates present during the history taking and examination of the patient, as law enforcement advocates do not have the same level of privilege or confidentiality as community-based advocates.

It is important that the Emergency Department staff be familiar with their local crisis center and the services that they offer the medical facility. The full listing of Colorado community-based advocacy services can be found at http://www.ccasa.org/gethelp/. To find an advocate via phone, call the National Sexual Assault Hotline at 1-800-656-HOPE (4673).

Patient Options for Evidence Collection and Reporting to Law Enforcement

In Colorado, healthcare providers caring for minors (patients under the age of 18 years of age) who are believed to have been sexually assaulted are required to report to law enforcement in the jurisdiction where the assault took place.

If the patient is an adult, providers must be aware of the various reporting options available to the patient. First, if the patient has evidence collected, the healthcare provider is legally mandated to report the suspected sexual assault to law enforcement (Colorado Revised Statutes, 2014); however, the patient is not obligated to participate in the criminal justice system and can choose one of three reporting options: law enforcement report, medical report or anonymous report.

Law Enforcement Reporting with Evidence Collection

If the patient knows they wish to report the crime, is opting to have evidence collected, and law enforcement has not yet been contacted, the provider should notify the law enforcement agency in the jurisdiction where the sexual assault occurred. When the responding officer arrives, the provider should record the officer's name and associated case number in the patient's record.

Medical Reporting with Evidence Collection

Some patients who present themselves to the emergency department for medical forensic treatment may, because of the trauma they have experienced or for other reasons, be undecided over whether to report the crime to law enforcement.

The medical reporting option was developed in recognition of the dual importance of sensitivity to the needs of the patient and timely collection and preservation of physical evidence. The medical reporting option ensures that victims of sexual assault, who are undecided whether to report the assault, have the opportunity to preserve evidence that would otherwise be destroyed through normal activity. Although the patient is not participating in the investigation, s/he may choose to speak with law enforcement to obtain information. Medical reporting victims can also choose to have their evidence tested and may later decide to convert their case to a law enforcement report.

The examiner will notify law enforcement of the medical report, obtain an associated case/report number, and turn over the evidence kit, with patient identifying information, to the law enforcement agency. The evidence kit is stored for a minimum of two years at the law enforcement agency, maintaining chain of custody, from the date of the medical forensic examination.

Anonymous Reporting with Evidence Collection

The anonymous reporting option was developed with the knowledge that some sexual assault patients may want to have medical care and evidence collection, but remain anonymous to law enforcement at the time of receiving care. This option ensures that these sexual assault victims have the opportunity to preserve evidence that would otherwise be destroyed through normal activity. Although the patient is not participating in the investigation, s/he may choose to speak anonymously with law enforcement to obtain information. Anonymous reporting victims cannot have their evidence tested unless they convert to a medical or law enforcement report and provide identifying and contact information, which they may choose to do later. Anonymous kits cannot be tested due to the inability of law enforcement to follow-up, if necessary, regarding testing outcomes.

The examiner will notify law enforcement of the anonymous report, obtain an associated case/report number, and turn over the evidence kit, with a unique identifying number, to the law enforcement agency. The evidence kit is stored under the unique identifying number for a minimum of two years at the law enforcement agency, maintaining chain of custody, from the date of the medical forensic examination.

If medical or anonymous reporting patients ultimately choose to convert their case to a law enforcement report, they will provide the case/report number received upon hospital discharge to police so the evidence may then be associated with the reporting victim and an investigation may commence.

It is essential to recognize that any crime victim has the right to report the crime at any time following the commission of that crime. Whether the crime can be prosecuted is a matter that will be determined by the criminal justice system based on a variety of factors.

Timing Considerations

Typically sexual assault patients fall into two categories: acute and non-acute. Acute cases occur within the evidence collection window, while non-acute rarely involve evidentiary collection, but may require an immediate evaluation. The evidence collection kit may be collected **up to 120 hours after an assault in the adolescent/adult patient population and up to 72 hours post assault in the prepubescent population**. Because each case is unique, evidence collection outside the defined time frames may be considered on a case-by-case basis. Please note that this time frame is solely related to evidence kit collection. Patients may seek care weeks or even months following an assault with complaints, such as possible sexually transmitted disease or pregnancy, and should be offered appropriate care whenever it is sought.

Because the criminal justice system is responsible for payment only when evidence is collected, please see the payment section (Appendix 2) for more information regarding appropriate billing practices.

Collecting and Packaging Evidence

- Consent must be obtained in writing prior to any exam or evidence collection.
- The collection kit contains two consent forms; the examiner will only use ONE of forms (see Appendix 3).
  - For law enforcement or medical reporting victims, the examiner uses the Sexual Assault Consent and Information Form
  - For anonymous reporting victims, the examiner uses the Anonymous Report Consent and Information Form
- The examiner should always wear powder-free gloves when collecting and packaging evidence.
- The examiner should always change gloves between specimen collections.
- Clothing and other evidence specimens must be sealed in paper or cardboard containers.
- All wet evidence should be dried prior to packaging whenever possible.
- In the event that the evidence is wet, the items may be first placed in paper bags then into plastic bags, provided that holes for ventilation are made in the plastic bag.
- **Urine specimens obtained should be sealed in a biohazard bag, then in a paper bag, and NEVER PLACED INSIDE THE EVIDENCE KIT**.
- All hospital Occupational Health and Safety regulations should be followed per institutional policy.
- Envelopes containing evidence should never be sealed with the examiner's saliva. Self-adhesive envelopes or tape should be used.
- Paper bags should be sealed with tape, never staples.
- All evidence collected and sealed should be labeled with the date and time of collection, as well as with the collector's initials.

Chain of Custody

While medical information and forensic evidence may be collected together, forensic evidence must be collected, preserved and documented in a manner that ensures its admissibility at a later date as evidence in court. The custody of the evidence in the

collection kit, as well as any clothing or other collected items, must be accounted for from the time it is initially collected until it is admitted into evidence at trial. This is accomplished by establishing a "**chain of custody**." Chain of custody chronologically documents each individual who handles a piece of evidence from the time it is collected. The unbroken chain of custody establishes the integrity of the evidence and any subsequent analysis of the evidence and is a prerequisite to admitting the evidence in court.

Sealing the kit with the evidence tape provided, and initialing that seal, establishes that the medical forensic evidence has not been tampered with and ensures the integrity of the evidence. This also applies to any collected clothing or other items which are not sealed in the kit.

The chain of custody for a piece of evidence is established by documenting the name and date that the item is received and/or transferred to another individual, beginning at the date and time the evidence is initially collected. The evidence must also be labeled with the name of the unique patient information identifier, the sexual assault examiner, and the source of the specimen. Additionally, the evidence must be kept in a manner that precludes tampering. This is accomplished by sealing the evidence kit with the evidence tape provided, initialing the seal, and keeping the evidence in a secure place. It is important to emphasize the documentation of the chain of custody includes the receipt, storage, and transfer of evidence.

Swab and Smear Collection Procedure

The purpose of making smears is to provide the forensic analyst with a nondestructive method of identifying semen, which is accomplished through the identification of the presence of spermatozoa. If no spermatozoa are present, the analyst will then proceed to use the swabs to identify the seminal plasma components to confirm the presence of semen.

If patients must use bathroom facilities prior to the collection of these specimens, they should be cautioned that semen or other evidence may be present in their pubic, genital and anal areas and to take special care not to wash or wipe away those fluids until after the evidence has been collected.

The number of tests that lab personnel can perform is limited by the quantity of semen or other fluids collected. Consequently, four swabs should be used when collecting specimens from the oral, anal and vaginal cavities. When taking swabs, the examiner should take special care not to contaminate the individual collections with fluids or matter from other areas, such as vaginal to anal or penile to anal.

Depending upon the type of sexual assault, semen may be detected in the mouth, vagina, anal cavity or on the body surface. However, embarrassment, trauma, or a lack of understanding of the nature of the assault may cause a patient to be vague or mistaken about the type of sexual contact that actually occurred. For these reasons, and because there may also be leakage of semen from the vagina or penis onto the anus, even without rectal penetration, it is recommended that the female patient be encouraged to allow

examination and collection of specimens from both the vagina and anus. In cases where a victim is certain that contact or penetration involved only one or two orifices (or in some circumstances, no orifices at all), it is important that the victim is able to decline these additional samples.

Each of the oral, vaginal/penile, and anal collection envelopes contain the applicable slide to create the smear. When swabs are collected from each of these orifices, all four swabs collected should be utilized to make the appropriate smear by placing the cotton end of the collected swab in the center of the slide and smearing the center of that slide with the collected specimen. Care should be taken that the correct side of the slide is used to make the smear. The correct side of the slide should be indicated by a label marked “oral” or “vaginal/penile” or “anal.” The smear should not be fixed or stained.

Colorado Sexual Assault Consent and Information Form (see Appendix 3)

Fill out all requested information and have patient (or parent/guardian when applicable) and witness sign where indicated. This form should be completed in all instances, regardless of patient age except the “withdrawal of consent for evidence analysis/release of results” section, which is not applicable to patients under the age of 18). The bottom of the form indicates where each duplicate copy should go. **Do not copy and submit the rest of the patient’s medical record with the evidence kit**.

Remember, consent is a process that continues throughout the exam. The patient has the right to withdraw consent when and if s/he chooses.

Colorado Sexual Assault Anonymous Report Consent and Information Form (see Appendix 3)

Fill out all requested information and have patient and witness sign where indicated. Anonymous reporting is only an option for patients 18-69 years old. Mandatory reporting laws prevent minors under 18 and adults 70 or older from anonymously reporting a sexual assault. This form should be completed for all anonymous reporting patients. The bottom of the form indicates where each duplicate copy should go. Do not give a copy of this form to law enforcement. **Do not copy and submit the rest of the patient’s medical record with the evidence kit**.

Remember, consent is a process that continues throughout the exam. The patient has the right to withdraw consent when and if s/he chooses.

Sexual Assault Incident Form (see Appendix 3)

This is the only information the crime lab will receive regarding the examination of the patient. Assault specific details and findings from the medical forensic examination must be documented on the form provided and included in the evidence kit in order to best inform the investigating officers and the laboratory analysts of the nature of the assault, as well as the possible location of evidentiary material. Distribute the duplicate copies of the form as indicated on the bottom once completed.

Collection Steps

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 the offender's 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 of the patient, 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.

The most common items of clothing collected from patients and submitted to crime laboratories for analysis are underwear, hosiery, blouses, shirts, and slacks. There are also instances when coats and even shoes must be collected. These items should only be taken if the patient wore them at the time of the assault and they likely contain evidence in the case. A patient's wallet, cash and credit cards should not be taken. A patient's jewelry should not be taken. If the examiner believes material has been transferred from the offender onto the victim's jewelry, the jewelry should be swabbed using sterile water/saline and swabs, and packaged appropriately as part of the evidence collection kit.

In the process of criminal activity, different garments may have made contact with different surfaces and debris from both the crime scene and the offender. 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.

When the determination has been made that the victim's clothing contains possible evidence related to the assault, with patient consent, those items should be collected. The patient has the right to refuse to turn over any article of clothing. Underpants of female victims of sexual assault where penile-vaginal penetration has occurred should always be collected if the patient is seen within 120 hours of the examination, even if the patient has changed underpants since the assault.

If it is determined that the patient is not wearing the same clothing, the examiner should inquire as to the location of the original clothing. This information should be given to the investigating officer so that he or she can make arrangements to retrieve the clothing before any potential evidence is destroyed.

It is important that the treating facility have access to clothing the patient can wear home if her/his clothing is collected for evidence. Disposable paper hospital clothing is not acceptable. If there is no clothing available, many retail stores will make donations, or contact your local crisis center and ask them if they can be of assistance.

Clothing Collection Procedure

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

- Each facility should obtain large 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 your patient will stand and disrobe. If trace falls off while disrobing, the top drape will collect the trace. The drape the patient 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 (i.e. underpants, hosiery, slips, or bras) should be put into individual small 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.
- 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.
- It is important to remember that sanitary napkins, tampons, and infant diapers may also be valuable as evidence because they may contain semen or pubic hairs from the perpetrator. Items such as slacks, dresses, blouses, or shirts should be put into larger paper bags.

STEP 2: TRACE EVIDENCE

When caring for a sexual assault patient 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, if found on the victim or examination table, in the bindle provided. Fold bindle to contain the trace evidence and return bindle to envelope. Seal and fill out all information requested on envelope.

STEP 3: ORAL SWABS AND SMEAR

In cases where the patient was orally penetrated, the oral swabs and smear can be as important as the vaginal or anal samples. The purpose of this procedure is to recover seminal fluid from recesses in the oral cavity where traces of semen could survive.

Holding four swabs together swab the oral cavity including the gum line and inside the cheeks. Attention should be paid to those areas of the mouth, such as between the upper and lower lip and gum, where semen might remain for the longest amount of time. Prepare the oral smear by wiping all four swabs across the middle surface of the labeled glass slide. **The smear should not be fixed or stained**. Allow oral swabs and smear to air dry. Close and seal slide holder and return to kit. Return dried swabs to the Oral Swabs and Smear envelope. Seal and fill out all information requested on envelope.

Once oral swabs have been collected, have the patient rinse their mouth and wait 30 minutes before collecting buccal swab samples (step 13).

STEP 4: FOREIGN STAINS ON BODY SWABS

Semen is the most common fluid deposited on the patient by the offender. There are also other fluids, such as saliva, which can be analyzed by laboratories to aid in the identification of the perpetrator. It is important that the provider ask the patient about any possible foreign material left behind and examine the patient's body for evidence of foreign matter.

If fluids, such as saliva, seminal fluid and dried blood, are observed on other parts of the patient's body during the examination, the material should be collected using a set of swabs. A different set of swabs should be used for every fluid collected from each location on the body.

Oral contact with the victim’s breast or genitalia is common. It is important to ask the patient directly if and where the offender put his/her mouth, or where the suspect ejaculated. If the patient has not bathed or showered and contact has occurred, or the patient is uncertain, collect the specimens.

Dried fluids are collected by dampening the swab with sterile water/saline and swabbing the indicated area. After allowing the swab 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 envelope.

Bite Mark Procedure

Bite marks may be found on patients as a result of sexual assault, and should not be overlooked as important evidence. Saliva, like semen, may demonstrate the DNA profile of the individual from whom it originated. Bite mark impressions can be compared with the teeth of a suspect and can sometimes become as important for identification purposes, as fingerprint evidence. The collection of saliva and the taking of a photograph of the affected area are the minimum procedures that should be followed in cases where a bite mark is present, or believed to be present.

The collection of saliva from the bite mark should be made prior to the cleansing or dressing of any wound. If the skin is broken, swabbing of the actual punctures should be avoided when collecting dried saliva.

It is important that photographs of bite marks be taken properly. An individual, deemed appropriate for the situation and who has sufficient photography skills, should be contacted immediately to take photographs of bite mark evidence utilizing an American Board of Forensic Odontology #2 standard. This standard can be purchased from several companies, one of which can be found here: http://www.crimescene.com/store/index.php?main_page=product_info&products_id=342

Saliva is collected from the bite mark area by moistening two sterile swabs with a minimum of sterile water/saline and gently swabbing the affected area, following the same procedures as instructed for other dried fluids described in Step 4.

STEP 5: EXTERNAL GENITAL SWABS

If the circumstances of the assault suggest there has been contact between the victim's genitalia and the offender's mouth or penis **WITHIN 5 DAYS of the examination**, there exists the possibility that saliva or seminal fluid may be found on the patient's external genitalia. In this instance, the two cotton tipped swabs in the envelope should be moistened slightly with sterile water/saline and the entire pubic area should be swabbed, the swabs dried and packaged appropriately. Seal and fill out all information requested on envelope.

When the patient is prepubescent, external genital swabs should be collected instead of vaginal and cervical swabs.

STEP 6: PUBIC HAIR COMBINGS

Pubic hair can retain trace evidence from a sexual assault. For this reason, collection of pubic hair combings may be beneficial. If the patient is prepubescent or has shaved her/his pubic hair, external genital swabs would be more appropriate.

Place the bindle under the patient'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 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." Although this specimen may also be collected by cutting off the matted material, it is important to obtain the patient's permission before cutting any amount of hair.

STEP 7: PUBIC HAIR STANDARD

Pubic hair standards are a pulled sample of the patient's pubic hair (a minimum of 25 hairs). This sample **IS NOT TYPICALLY COLLECTED** with the exception of the following circumstances:

- There is an unknown offender where a scene investigation by law enforcement is expected; or
- There is a scene investigation where evidence collection reveals a hair sample in need of the victim's hair for comparison purposes.

In these circumstances, and with the victim's consent, pull a minimum of 25 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 envelope.

STEP 8: HEAD HAIR STANDARD

Head hair standards are a pulled sample of the patient's head hair (a minimum of 25 hairs). This sample **IS NOT TYPICALLY COLLECTED** with the exception of the following circumstances:

- There is an unknown offender where a scene investigation by law enforcement is expected; or
- There is a scene investigation where evidence collection reveals a hair sample in need of the victim's hair for comparison purposes.

In these circumstances, and with the victim's consent, pull a minimum of 25 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 envelope.

STEP 9: ANAL SWABS AND SMEAR

After fully explaining the procedure to the patient, put the patient in either supine or prone knee-chest position, and apply gentle bilateral pressure with the examiner's hands to the patient's buttocks. Allow approximately 2 minutes for anal dilation to occur. Swab the anal cavity using the four swabs provided. To minimize patient discomfort, these swabs may be moistened slightly with sterile water/saline. Prepare the smear by wiping ~~s~~wabs across the top, labeled surface of the microscope slide. The smear should not be fixed or stained. Allow all swabs and smear to air dry. Close and seal slide holder and return to kit. Dry and return swabs to envelope. Seal and fill out all information requested on envelope.

At this time, any additional examinations or tests (ie: STI testing, cultures, anoscopy, etc.) involving the rectum should be conducted.

STEP 10: VAGINAL/PENILE SWABS AND SMEAR

Vaginal Swabs

Vaginal swabs should only be obtained in the adolescent (pubertal) and adult population of female patients. Prepubescent patients would have external genital swabbing only. When collecting the vaginal specimens, it is important not to aspirate the vaginal orifice or to dilute the fluids in any way.

Utilizing a speculum in the patient who has reached the onset of menses, swab the vaginal vault using the four swabs provided. Prepare the vaginal smear by wiping the four swabs across the middle surface of the labeled glass slide. The smear should not be fixed or stained. Allow all swabs and smear to dry. Close and seal slide holder and return to kit. Dry and return swabs to envelope. Seal and fill out all information requested on envelope.

At this time, the remainder of the pelvic examination should be performed and any additional examinations or tests (i.e., STI culturing, etc.) should be conducted.

Collection of Tampons as Evidence

The sexual assault examiner may find that the patient has inserted a tampon in response to menstruation or bleeding post assault, or the patient may have a tampon in from the time of the assault. The tampon may have absorbed residual semen from the offender. It will

therefore be necessary to collect the tampon as evidence. Obtain a sterile urine specimen collection container from hospital supply. Label the container with the name of the patient, date, time and collector's initials. Punch three or four small (18 gauge needle) air holes through the cover of the container. Carefully remove the tampon from the patient's vaginal cavity, or ask the patient to remove the tampon, and place it in the urine specimen container. Cover the specimen container and place it into a **paper bag**. Label the bag with the name of the patient, date, time and collector's initials. Seal the paper bag with tape and keep it separate from the Evidence Collection Kit. Do not attempt to secure the tampon and packaging in the Evidence Collection Kit. Refrigerate the specimen if transport to the laboratory is not immediate. Be sure to circle or highlight "refrigerate" on the front of the kit and notify law enforcement to ensure that the evidence will be properly preserved.

Penile swabs

For the male patient, both adult and child: 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 as this could result in obtaining a DNA sample of the victim instead of the perpetrator.

Any other applicable hospital testing (ie: RPR, VDRL, HIV, etc) should be done at this time.

STEP 11: CERVICAL SWABS AND SMEAR

As with vaginal samples, cervical samples are only collected in patients who are past onset of menses. The cervix provides an excellent source for sperm and DNA collection. The cervix serves as a reservoir for sperm as the flow of cervical mucus creates strands that direct the sperm upward. Cervical swabs should be collected across the face of the cervix and in the cervical os.

This area is first visualized with a speculum. Then the area is swabbed by holding four dry swabs together across the face of the cervix. Prepare the smear by wiping the four swabs across the middle surface of the labeled glass slide. The smear should not be fixed or stained. Allow all swabs and smear to air dry. Close and seal the slide holder and return to kit. Air dry and return swabs to envelope. Seal and fill out all information requested on envelope.

STEP 12: FINGERNAIL CLIPPINGS/SWABBINGS

Fingernail clippings are commonly collected on patients which may have been in a physical altercation during an assault. They may contain skin cells of the suspect and are simple to collect.

Use clippers from kit and the nurse or patient 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 requested information.

If a patient has very short nails, declines having nails cut, or in the case of a child where cuttings could be difficult, 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. Seal and fill out all information requested on envelope.

STEP 13: BUCCAL SWABS

In some instances of sexual assault, dried deposits of blood, semen, or saliva may be found at the crime scene or on the body or clothing of either the patient or suspect. The purpose of collecting DNA Sample/Buccal Swabs is to determine the patient's DNA profile for comparison with such deposits.

Prior to collection of the buccal swabs, have the patient rinse their mouth and wait 30 minutes before collecting the samples.

Swab the inner aspects of both cheeks with all four swabs until moistened. Allow both swabs to dry. Place swabs in the appropriate envelope. Seal and fill out all information requested on envelope.

Buccal swabs should be taken in ALL acute sexual assault patients, including children.

STEP 14: ADDITIONAL EVIDENCE

One additional envelope is included in the Colorado kit. Use clinical discretion as to whether it is a needed evidence collection component or not. This will vary based on the patient, history and circumstances of the assault. For example, it may be appropriate to swab a female's abdomen when she says the suspect ejaculated on her. Other circumstances may exist where the additional envelope will be helpful and the sexual assault examiner should use their best clinical judgment in determining appropriateness of inclusion.

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.

Bibliography

Campbell, R. (2004, November). *The Effectiveness of Sexual Assault Nurse Examiner Programs*. Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic Violence/Pennsylvania Coalition Against Domestic Violence. Retrieved from: http://www.vawnet.org

IAFN Position Paper: Collaboration with Victim Advocates (2008). Available at http://iafn.org/associations/8556/files/IAFN%20Position%20Statement-Advocate%20Collaboration%20Approved.pdf

New Hampshire Department of Justice Office of the Attorney General. (2011). Sexual Assault: An Acute Care Protocol for Medical Forensic Evaluation. . *Sexual Assault: An Acute Care Protocol for Medical Forensic Evaluation.* (6th). Concord, NH, US. Retrieved December 29, 2013, from http://doj.nh.gov/criminal/victim-assistance/documents/acute-care-protocol.pdf

US Department of Justice Office on Violence Against Women. (2013). *A National Protocol for Sexual Assault medical Forensic Examinations: Adults/Adolescents.* Retrieved December 29, 2013, from https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf

Appendix 1

How to Order Evidence Collection Kits

The Colorado Bureau of Investigation (CBI) contracts with the SIRCHIE company to create and have available a kit based on the established Colorado Evidence Collection protocol. To order these specific kits call 1 (800) 356-7311.

Facilities may use any company they wish to order the kits, understanding that the recommendation would be to follow the protocol outlined here.

Appendix 2

Payment for Exams

Authorization to Obtain a Medical Forensic Exam

Sexual assault victims decide whether to have a medical forensic exam; law enforcement officers and prosecutors have no legal authority to authorize or deny these exams.

Law: *Forensic Medical Evidence*[1] *in Sexual Assault Cases*

A requirement that forensic evidence must be collected if a victim of an alleged sexual assault requests it to be collected [C.R.S. § 24-33.5-113(1)(b)(I)].

Law enforcement and medical personnel shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a forensic medical examination [C.R.S. § 24-33.5-113(2)].

Rule: *Colorado Department of Public Safety, Colorado Bureau of Investigation: Rules and Regulations Concerning Forensic Medical Evidence Collection in Connection with Sexual Assaults in the state of Colorado*

Consent: Forensic medical evidence must be collected if a victim of an alleged sexual assault requests the collection. Law enforcement and medical personnel shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a forensic medical examination.

[1] "Medical forensic" evidence is written in Colorado law and Department Rules as "forensic medical" evidence. This document uses the more correct term medical forensic evidence unless the law or rule is directly quoted.

Payment for the Evidence Collection Portion of Medical Forensic Exams

Reporting Victims

Reporting Victims are victims who report the assault to law enforcement before, during or after the medical forensic exam.

Whether a law enforcement agency chooses to investigate a case or not, they pay for the evidence collection portion of a medical forensic exam for reporting victims.

Law: *Victim Evidence – Forensic Evidence*

A law enforcement agency with jurisdiction over a sexual assault must pay for any direct cost associated with the collection of forensic evidence from a victim who reports the assault to the law enforcement agency [C.R.S. § 18-3-407.5(1)].

A law enforcement agency, prosecuting officer, or other government official may not ask or require a victim of a sexual offense to participate in the criminal justice system process or cooperate with the law enforcement agency, prosecuting officer, or other government official as a condition of receiving a forensic medical examination that includes the collection of evidence [C.R.S. § 18-3-407.5(3)(a)].

Medical and Anonymous Reporting Victims

Medical and Anonymous Reporting Victims are victims who receive a medical forensic exam and who have chosen, at the time they leave the medical forensic exam program, to not participate in the criminal justice system; anonymous reporting victims also choose to not reveal any identifying information to law enforcement.

The Division of Criminal Justice pays for the evidence collection portion of an exam for medical and anonymous reporting victims.

Law: *Victim Evidence – Forensic Evidence*

A victim of a sexual offense shall not bear the cost of a forensic medical examination that includes the collection of evidence that is used for the purpose of evidence collection even if the victim does not want to participate in the criminal justice system or otherwise cooperate with the law enforcement agency, prosecuting officer, or other government official. The division of criminal justice in the department of public safety shall pay the cost of the examination [C.R.S. § 18-3-407.5(3)(b)].

Payment for Costs Associated with Obtaining Medical Forensic Exams and/or Medical Costs Related to the Sexual Assault

Victim Compensation Program (C.R.S. §24-4.1-101)

Colorado victim's compensation is available to sexual assault victims who have reported the assault to law enforcement and are cooperating with the investigation. Victims may be eligible to receive up to $20,000 for certain out-of-pocket expenses not covered by insurance or other collateral resources, or up to $1,000 in emergency funds directly related to the crime. Colorado's Victim Compensation system is decentralized, meaning crime victim compensation programs exist in each of the state's 22 judicial districts. The judicial district where the crime occurred is responsible for accepting and reviewing victim compensation applications so applications must be submitted in the district where the crime occurred. To obtain contact information for local Victim Compensation Administrators, please refer to DCJ's website at https://sites.google.com/a/state.co.us/dcj-victim-program/home/victims-compensation.

Sexual Assault Victim Emergency (SAVE) Payment Program (C.R.S. §18-3-407.7)

Medical reporting victims, victims initially choosing to not report the assault to law enforcement at the time of receiving medical care, can receive some financial assistance from the Colorado Sexual Assault Victim Emergency Payment Program, which was established in 2013. The SAVE program pays routine medical costs associated with obtaining a medical forensic exam and can also pay, when funds are available, some medical expenses directly related to injuries sustained during a sexual assault. The SAVE program has a per person cap which is established annually and typically ranges from $2,000 to $3,000 per person. The Colorado Division of Criminal Justice (DCJ) is the designated administrator of the SAVE program. For additional information about this program, contact DCJ at 303-239-5719.

Appendix 3

Evidence Collection Kit Forms

The following pages show examples of the forms that should be contained in and are used in conjunction with the Colorado Evidence Collection Kit.

There are three forms included in every kit:

- Sexual Assault Incident Form
- Colorado Sexual Assault Consent and Information Form; and
- Colorado Sexual Assault ANONYMOUS REPORTING Consent and Information Form.

The Sexual Assault Incident Form is always filled out and included in the completed kit.

Only one of the two consent forms is filled out for each kit that is opened. The reporting decision of the patient determines which form is completed.

If a patient chooses to not have evidence collected, no report of the sexual assault is required and no consent forms, other than routine hospital consent forms, need to be completed.

Sexual Assault Incident Form

SEXUAL ASSAULT INCIDENT FORM
(COMPLETED FORM MUST BE PLACED IN THE SEXUAL ASSAULT EVIDENCE KIT)

Date of Collection/Examination_____ Time:_____ am/pm

Patient's Name: _____

Patient's Hospital Number: _____

Date of Assault: _____ Time:_____ am/pm

Date of Last Consensual Intercourse _____ Condom used at that time? ☐Yes☐No

Patient menstruating at time of exam? ☐Yes ☐No ☐N/A

Number of Assailants _____

Type of Assault:
☐ Oral - Please specify method: ☐ Patient to Assailant ☐ Assailant to Patient
☐ Vaginal ☐ Anal ☐ Unknown
☐ Other _____

Type of Penetration:
☐ Penile ☐ Digital
☐ Unknown
☐ Other _____

Did Suspect Ejaculate
☐ Yes
If yes, where _____
☐ No
☐ Unknown

Was Condom Used:
☐ Yes
☐ No
☐ Unknown

After Assault Did Patient:
☐ Douche ☐ Shower/Bathe
☐ Brush Teeth ☐ Change Clothes
☐ Defecate ☐ Urinate/Wipe
☐ Eat/Drink

Trauma: ☐ Not Present ☐ Present - Describe:_____
_____
_____
_____

Location of Exam (Name of Facility):_____

Examiner: _____ _____
Print Name and Credential Signature

White copy – enclose with kit Yellow copy – law enforcement agency Pink copy – medical records

Law Enforcement and Medical Reports – Colorado Sexual Assault Consent and Information Form

COLORADO SEXUAL ASSAULT CONSENT and INFORMATION FORM

Collection, Analysis/Release, and Consent Withdrawal of Sexual Assault Evidence/Information

▶ **You have the right to have this form explained and all of your questions answered. Please initial and sign where appropriate. You will receive a copy of this form after it is completed.**

Law Enforcement Agency:	Case No:
Officer Name:	Phone No:

Medical Forensic Exam

▶ _____	**I consent to a medical forensic exam**. I understand I can stop the exam at any time and can decline any portion of the exam or collection of any sample.

Reporting Decision (initial only one)

▶ _____	**I am choosing to make a report to law enforcement**. I give permission for evidence collected and information gathered during my sexual assault exam to be released to law enforcement for use in investigation(s) and potential prosecution(s). I understand the investigating law enforcement agency will be given my name and contact information.
▶ _____	At this time, **I am choosing NOT TO REPORT TO LAW ENFORCEMENT OR PARTICIPATE** in any investigation. I understand I can change my mind and later report to law enforcement. I understand law enforcement may be given my name. I understand law enforcement may choose to investigate but I do not have to participate.

Evidence Analysis/Release of Results (initial only one)

▶ _____	**I consent for law enforcement to release the collected evidence to a forensic lab for analysis**. I understand law enforcement ***may*** submit the evidence to a lab no later than 21 days after receiving it. I understand if the evidence is analyzed, law enforcement ***will*** receive the results for the purposes of investigation(s) and potential prosecution(s).
▶ _____	**I consent only to the collection and storage of evidence** at a law enforcement agency. I understand this means the evidence will **NOT** be submitted to a forensic lab for analysis. I understand I can change my mind, make a report to law enforcement and possibly have the evidence analyzed at a forensic lab. I understand law enforcement is only required to hold the evidence for a minimum of 2 years.

Withdrawal of Consent for Evidence Analysis/Release of Results (only patients 18 years & older)

▶ _____	**I understand I may withdraw my consent for evidence analysis/release of results** by contacting the law enforcement agency listed on this form. I understand the withdrawal of consent becomes effective when law enforcement verifies my identity, but will not apply to any actions already taken. I understand that once analysis has begun, consent cannot be withdrawn.

Printed Patient Name	Patient Signature	Date
Printed Witness Name/Title	Witness Signature	Date

White Copy – Enclose with Kit Yellow Copy - Law Enforcement Pink Copy – Medical Records Green Copy – Patient

Do NOT fill this consent form out if the patient chooses to make an Anonymous Report.

The Colorado Sexual Assault Consent and Information Form should only be filled out for patients who choose to make a law enforcement or medical report (see pages 2 & 3 for definitions).

Basic Information

Fill in the law enforcement information, including law enforcement agency, officer name, case number and agency phone number.

Four Sections

- Only the patients' initials are entered in the sections of this form.
- DO NOT put any other marks, such as an "X" or "N/A," in these sections.

1. **Medical Forensic Exam**

   The patient or consenting party must initial this section if s/he is consenting to a medical forensic exam. Initials here indicate the patient or consenting party consents to the exam and understands s/he can stop the exam at any time and decline any portion of the exam or collection of any sample.

2. **Reporting Decision**

   The patient or consenting party initials **one** of the two choices.

   Initials next to the "I am choosing to make a report to law enforcement" paragraph indicate the patient is opting for a law enforcement report. This means the patient consents to evidence collection and to have the evidence and contact information, released to law enforcement. This choice also means the patient is willing to participate in a law enforcement investigation, if one occurs.

   Initials next to the "I am choosing NOT TO REPORT TO LAW ENFORCEMENT OR PARTICIPATE" paragraph indicate the patient is opting for a medical report. This means the patient consents to evidence collection, and to have that evidence and her or his name and contact information released to the appropriate law enforcement agency; however, the patient is also declining, at that time, to participate in an investigation.

3. **Evidence Analysis/Release of Results**

   The patient or consenting party initials **one** of the two choices.

   Initials next to the "I consent for law enforcement to release the collected evidence to a forensic lab for analysis" paragraph means the patient consents to analysis of evidence and understands law enforcement will receive the results of any testing performed.

Initials next to the "I consent only to the collection and storage of evidence" paragraph mean the patient consents only to the storage of evidence. The evidence will not be submitted for analysis.

4. **Withdrawal of Consent for Evidence Analysis/Release of Results**

   This section applies only to patients 18 years of age or older. Mandatory reporting laws prevent minors from withdrawing consent for testing.

   - This section left blank with minor patients.

   The patient or consenting party must initial this section indicating s/he understands s/he may contact law enforcement to withdraw consent regarding evidence analysis and release of results. It does not mean s/he is withdrawing consent at the time of the exam. It further indicates s/he understands it does not apply to actions already taken and once analysis has begun, consent cannot be withdrawn.

Signatures

After all sections have been initialed (with the exception for minors noted above) the patient or consenting party, and the heath care provider, print and sign their names and date the form.

Labeling of Evidence

All individual evidence collection envelopes should be labeled with, at a minimum, the patient's name and date/time of the evidence collection. The evidence collection kit should also be labeled with the patient's name, as well as the other information indicated.

Evidence Submission

The kit, with the information on the front filled out, is given to law enforcement.

ANONYMOUS REPORTS – Colorado Sexual Assault Anonymous Reporting Consent and Information Form

ANONYMOUS Reporting Patients Only
Law enforcement does not receive a copy of this form.

COLORADO SEXUAL ASSAULT ANONYMOUS REPORT CONSENT and INFORMATION FORM

Anonymous Reporting is ONLY an option for patients who are 18 to 69 years old. Mandatory reporting laws prevent minors under 18 and adults 70 years and older from anonymously reporting a sexual assault.

▶ **You have the right to have this form explained and all of your questions answered. Please initial and sign where appropriate. You will receive a copy of this form after it is completed.**

Law Enforcement Agency:	Case No: Unique Identifying Number (if different than case number):
Officer Name:	Phone No:

Medical Forensic Exam

▶ _____	**I consent to a medical forensic exam**. I understand I can stop the exam at any time and can decline any portion of the exam or collection of any sample.

Reporting Decision (both must be initialed by patient)

▶ _____	**At this time, I am choosing to make an anonymous report**. I understand I will have evidence collected that will be stored anonymously at a law enforcement agency. I understand that law enforcement will not be given my name or other identifying information. I understand I can change my mind and later report to law enforcement by providing the unique identifying number given to me.
▶ _____	I understand that the evidence **will NOT be submitted** to a forensic lab for analysis. I understand I can change my mind and possibly have the evidence analyzed, but must provide my name and contact information to law enforcement. I understand law enforcement is only required to hold the evidence for a minimum of 2 years.

Printed Patient Name | Patient Signature | Date

Printed Witness Name/Title | Witness Signature | Date

White Copy – Enclose with Kit Pink Copy – Medical Records Green Copy – Patient

Do NOT fill out this consent form if the patient chooses to make a law enforcement or medical report.

The Colorado Sexual Assault ANONYMOUS REPORT Consent and Information Form should only be filled out for patients who are choosing to remain anonymous (see page 2 for definition).

Anonymous reports are only available to patients who are between the ages of 18 and 69 years. Mandatory reporting laws prevent minors – under 18 – and at-risk adults – 70 or older – from utilizing this option.

Basic Information

Fill in the law enforcement information, including law enforcement agency, officer name, case number and agency phone number.

Two Sections

- Only the patients' initials are entered in the sections of this form.
- DO NOT put any other marks, such as an "X" or "N/A," in these sections.

1. **Medical Forensic Exam**

   The patient or consenting party must initial this section if s/he is consenting to a medical forensic exam. Initials here indicate the patient or consenting party consents to the exam and understands s/he can stop the exam at any time and decline any portion of the exam or collection of any sample.

2. **Reporting Decision**

   Both paragraphs in this section should have the patient's or consenting party's initials next to them.

   Initials next to the "I am choosing to have evidence collected and stored anonymously" paragraph mean the patient is choosing to make an anonymous report. This indicates the patient does not want law enforcement to receive any of her or his identifying information, including name and contact information. This also indicates the patient declines to participate in an investigation at this time.

   Initials next to "I understand that evidence will not be submitted" paragraph, means the patient understands the evidence collected will be stored by law enforcement under the unique identifying number, but will not be submitted for analysis.

Signatures

After all sections have been initialed, the patient or consenting party, and the health care provider, print and sign their names and date the form.

Labeling of Evidence

All individual evidence collection envelopes should be labeled with, at a minimum, the patient's name and date/time of the evidence collection.

When the evidence kit is turned over to law enforcement for storage, there should be no victim identifying information visible to law enforcement. How this is accomplished should be determined by working with your local agencies and/or through your SART. Two examples are provided here:

1. The outside of the evidence collection kit should be labeled with the unique identifying number (in lieu of the patient's name and contact information), as well as the other information indicated. All forms are sealed inside the kit. No patient identifying information should be on the outside of the kit.

2. The evidence collection kit should be labeled with the patient's name and contact information, as well as the other information indicated. All forms are sealed inside the kit. The evidence collection kit should then be placed in a brown paper bag. The brown paper bag should then be sealed and the unique identifying number written on the outside. No patient identifying information should be on the brown paper bag.

Consent forms or other victim identifying forms or information, should not be provided to law enforcement.

Evidence Submission

The Anonymous Reporting Consent and Information Form is **not** provided to law enforcement. It is sealed in the evidence collection kit. Only the unique identifying number is displayed on the outside of the evidence collection kit or bag holding the evidence collection kit. The kit is then given to law enforcement for storage.

Appendix 4

HIPAA

The HIPPA regulation is the first federal medical privacy law of its kind in United States' history. While many states have laws that protect patient privacy, the HIPPA regulation creates a federal floor for privacy protections to ensure that minimum levels of protection are in place in all states.

In the most general sense, the regulation **prohibits** use and disclosure of protected health information unless expressly permitted or required by the regulation. The regulation **requires** disclosure (1) to the individual who is the subject of the information and (2) to Health and Human Services for enforcement purposes. The new regulation does not create mandatory reporting in a state where there was no previous mandatory reporting. But, by the same token, HIPAA regulations do not preempt the health care providers' obligation to report, that which is reportable under Colorado law.

Appendix 5

Photographs

Photographs are an important adjunct to the narrative information contained in the medical/forensic exam. Photographs serve to visually document the actual physical appearance of an injury to preserve it for additional analysis (i.e., a bite mark) and/or for presentation as evidence. For photographs to be admissible in court, they must first be authenticated. Someone who personally observed the patient's injuries must be able to testify that the photograph fairly and accurately depicts the actual appearance of the injury at the time the photograph was taken.

Photographs may only be taken with the written consent of the patient. Photographs should not be taken in the place of diagrams or written descriptions, and should be taken by the examiner. In addition, photographs taken in the context of the medical/forensic examination become part of the medical record. Photographs should not be placed in the evidence kit. The existence of photographs should be noted in the medical record.

Blank anatomical diagrams should be used to show the location and size of all visible injuries and should also be accompanied by a detailed written description of the trauma, including measurements of the injuries.

Appendix 6

Drug or Alcohol Facilitated Sexual Assault

When to Suspect Alcohol or Drug Facilitated Sexual Assault

Toxicology screening should not be routinely completed for sexual assault patients. The decision to obtain toxicology samples should be made based on clinical need and/or assault history. The following are indicators that an alcohol or drug facilitated sexual assault should be suspected:

- Patient reports a lapse in memory that leaves a period of time unaccounted for with or without consumption of alcohol or other drugs prescription, recreational or otherwise;
- Patient reports "waking up" in a location and not knowing how she/he got there.

Collection Procedure

If ingestion occurred in the last 24 hours

Collect both blood and urine with the patient's consent using the following guidelines:

- Collect a minimum of 30 cc blood in gray top (potassium oxylate and sodium flouride) tubes through sterile venipuncture using only betadine or zephiran to clean the skin
- Alcohol should not be used to clean the skin prior to venipuncture
- Label and seal the specimen with appropriate information
- Seal in two biohazard bags
- Place in evidence bag, properly labeled, sealed and marked as BLOOD FOR REFRIGERATION, DO NOT FREEZE
- Collect a minimum of 90 cc of dirty urine in a urine specimen container from patient, first voided urine is preferable
- Label and seal the specimen with appropriate information
- Seal in two biohazard bags
- Place in evidence bag, properly labeled, sealed and marked as URINE FOR REFRIGERATION

If ingestion occurred 24-120 hours prior to treatment

Collect only urine with the patient's consent using the following guidelines:

- Collect a minimum of 90 cc of dirty urine in a urine specimen container from patient, first voided urine is preferable
- Label and seal the specimen with appropriate information
- Seal in two biohazard bags
- Place in evidence bag, properly labeled, sealed and marked as URINE FOR REFRIGERATION

Appendix 7

Strangulation Assessment Tool

STRANGULATION EVALUATION TOOL

Exam Date_____ **Exam Time** _____
Strangulation Date _____ **Strangulation Time** _____

Glascow Coma Scale (Circle the appropriate score for each, complete the total at the bottom)

Eye Opening	**Score**
Spontaneous	4
To speech	3
To pain	2
None	1

Verbal Response	**Score**
Oriented	5
Confused	4
Inappropriate	3
Incomprehensible	2
None	1

Motor Response	**Score**
Obeys commands	6
Localizes to pain	5
Withdraws from pain	4
Flexion to pain (decorticate)	3
Extension to pain (decerebrate)	2
None	1
Total Score (enter)	

Description of strangulation event(s) in patient's own words:_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Signature:_____ **Date:**_____

STRANGULATION EVALUATION TOOL

Method/Manner of Strangulation:

- ☐ One hand Estimated length of time: _____ seconds _____ minutes
- ☐ Two hands Estimated length of time: _____ seconds _____ minutes
- ☐ "Chokehold" Estimated length of time: _____ seconds _____ minutes
- ☐ Approached from the front
- ☐ Approached from behind
- ☐ Multiple strangulation attempts during incident (how many) _____
- ☐ Jewelry on patient's neck during strangulation
- ☐ Jewelry on suspect's hands/wrist during strangulation
- ☐ Ligature used (describe if possible) _____
- ☐ Smothering attempt (describe) _____
- ☐ Other (describe) _____

During strangulation did the patient note any of the following:

- ☐ Loss of consciousness/blacking out/passing out _____ Number of times
- ☐ Incontinence of Urine ☐ Incontinence of Stool
- ☐ Bleeding (describe) _____
- ☐ Patient's feet were lifted off the ground
- ☐ S/he was smothered in addition to strangled (with what) _____

Since the strangulation, has the patient noted any of the following symptoms:

☐ Coughing	☐ Drooling	☐ Dyspnea
☐ Dysphagia	☐ Odynophagia	☐ Headache
☐ Lightheadedness	☐ Neck Pain	☐ Neck swelling
☐ Nose Pain	☐ Nausea	☐ Vomiting
☐ Sore throat	☐ Crepitus/Subcutaneous emphysema	

- ☐ Uncontrolled shaking ☐ Combativeness/irritability/restlessness
- ☐ Voice changes (describe) _____
- ☐ Vision changes (describe) _____
- ☐ Loss of memory (describe) _____
- ☐ Bleeding (describe) _____
- ☐ Weakness/numbness of extremities (describe) _____

Signature: _____ **Date:** _____

STRANGULATION EVALUATION TOOL

On a scale of zero (0) meaning no pressure and ten (10) meaning the worst pressure you can imagine, how hard was the suspect's grip or pressure (circle the one that applies):

0 1 2 3 4 5 6 7 8 9 10

☐ Wong-Baker FACES Scale used (insert score)_____

Examination:

Patient Pregnant: ☐ No ☐ Yes Number of weeks_____

Fetal Heart Rate _____

Pregnancy related symptoms during or since strangulation:

_____

_____

O2 Saturation:

Time:_____ Level:_____

Time:_____ Level:_____

Lung Sounds:_____

Heart Sounds:_____

☐ Abnormal carotid pulse (describe)_____

☐ Petechiae ☐ Facial_____

☐ Ears_____

☐ Eyes_____

☐ Conjunctival_____

☐ Tongue injury _____

☐ Oral cavity injuries_____

☐ Subconjunctival hemorrhage_____

☐ Neurologic findings: ☐ Ptosis ☐ Facial droop ☐ Unilateral weakness

☐ Paralysis ☐ Loss of sensation

☐ Absence of normal crepitus felt during manipulation of cricoid cartilage

☐ Visible Injury (described on body maps below)

☐ Digital photographs taken

Signature:_____ Date:_____

STRANGULATION EVALUATION TOOL

Cranial Nerve Assessment

CN I	
CN II	
CN III	
CN IV	
CN V	
CN VI	
CN VII	
CN VIII	
CN IX	
CN X	
CN XI	
CN XII	

Signature:_____Date:_____

STRANGULATION EVALUATION TOOL

Right Eye



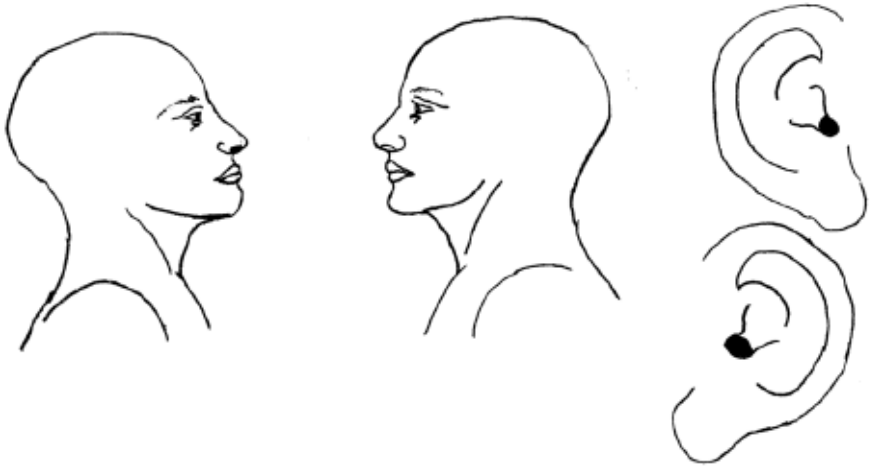
Left Eye



Signature:_____ Date:_____

STRANGULATION EVALUATION TOOL





Signature:_____Date:_____