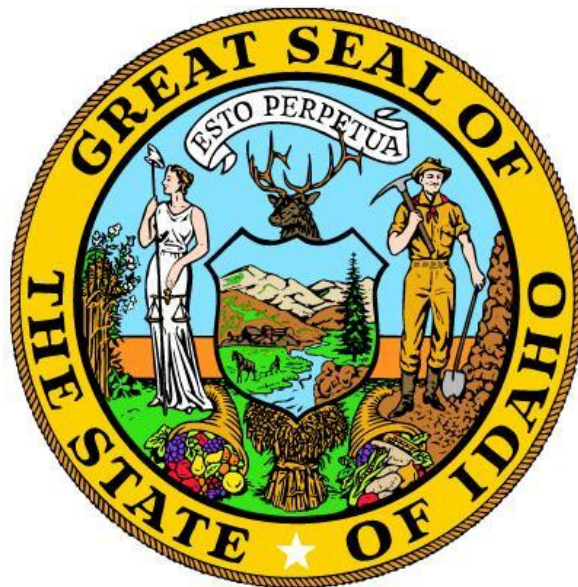


Idaho Sexual Assault Response Guidelines



August 2019
Revision 2

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Revision History

Revision #	Description of Changes
1	Original issue 1/21/2019

Introduction

The Idaho Sexual Assault Kit Initiative (ISAKI) policy advisory group was formed in 2014 with a goal of creating guidelines for a trauma informed and victim centered response to sexual assault in Idaho. The group consists of: a state legislator, state and local law enforcement, prosecutors, public defenders, a supreme court representative, a judge, victim advocacy and resource groups, victim compensation fund administrators, sexual assault nurse examiners, a physician, hospital administrators, researchers, college campus representatives and forensic laboratory personnel, all working together to improve the response to sexual assault cases in Idaho.

These individuals undertook the challenge of working to improve our statewide response to sexual assault. These guidelines represent the time and dedicated efforts of many different individuals, all working toward the common goal of providing the best possible outcome for victims of sexual assault in Idaho.

We recognize that each case of sexual assault is unique and that individual agencies and medical providers may have their own policies and procedures in place. These guidelines were put together in an effort to provide a uniform response to sexual assault statewide, and to provide a model for best practices in a multidisciplinary response to sexual assault.

Definitions

Adolescent: A young person in the process of developing from a child to an adult.

Backlogged Kit: A SAECK received by the laboratory that has remained untested for greater than 30 days.

CODIS: Combined DNA Index System is the program and software supplied by the FBI to support criminal justice DNA databases. Eligible DNA profiles are uploaded to national, state and/or state DNA databases for comparison. The goal of the comparisons is to provide additional investigative information to law enforcement agencies.

CODIS Eligibility: A term used to describe what is allowed to be entered and searched within the CODIS system. Forensic profiles must be associated with a crime and believed to be from the perpetrator of the crime. Samples taken directly from a suspect or provided solely for comparative purposes are not eligible for entry.

Disability: A physical or mental condition that limits a person's movement, senses, or activities.

Domestic Violence: The physical, emotional and/or mental abuse of an intimate partner to gain power and control over that person.

IKTS: Idaho Sexual Assault Kit Tracking Software is the tool used to track sexual assault kits in the state of Idaho in compliance with Idaho Code (67-2919). This program will be used by medical, law enforcement, laboratory and legal personnel for the tracking of kits. It is also available to victims of sexual assault to track the progress of their kit.

Jurisdiction: The official power to make legal decisions and judgment.

PREA: Prison Rape Elimination Act passed in 2003 supports the prevention, reduction and elimination of sexual violence in prisons.

Sexual Assault Evidence Collection Kit (SAECK): A box supplied by the Idaho State Police Forensic Services laboratory for the collection of sexual assault evidence by medical professionals. The kit contains multiple envelopes for collection of swabs, foreign matter and blood reference sample from the victim.

Sexual Assault Forensic Examiner (SAFE): A SAFE may be a physician, nurse practitioner, physician's assistant or registered nurse who is specially trained to provide comprehensive examination and care to sexual assault victims.

Sexual Assault Response Team (SART): The SART consists of the Sexual Assault Forensic Examiner (SAFE), the victim advocate, law enforcement, Adult Protection Services, and/or Child Protection Services, state crime lab and criminal justice representative depending on the victim's age or capacity.

Unfounded Report: A report having no foundation or basis for fact

Unsubmitted Kit: A SAECK in the possession of a law enforcement agency that has never been submitted to the forensic laboratory for forensic analysis.

Victim: A person harmed, injured, or killed as a result of a crime, accident, or other event or action.

Victim Witness Advocate: Community-based victim service providers who offer confidential services such as crisis intervention, safety planning, court advocacy, emotional support, counseling, and/or case management.

Law Enforcement based Victim Witness Coordinators: Respond at the time of incident and continue working with the victim through the investigative process, court proceedings, sentencing hearing and parole hearing. Court accompaniment, as well as being present for any meeting with detectives and prosecutors is provided. Others services include Victim's Compensation resources, crisis response, safety planning, and information about No Contact Orders and Protection Orders. Victim Witness Coordinators ensure the victim's voice is considered during the investigative and court process and they are kept informed of the progress of the investigation and court proceedings pursuant to Victim's Rights Legislation.

Vulnerable Adult: Any person over the age of eighteen who lacks the absolute most basic human life skills.

Idaho Sexual Assault Related Statutes

- Idaho Title 18 Chapter 15-Children and Vulnerable Adults
<https://legislature.idaho.gov/statutesrules/idstat/title18/t18ch15/>
- Idaho Title 18 Chapter 61-Rape
<https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH61/>
- Idaho Title 18 Chapter 66-Sex Crimes
<https://legislature.idaho.gov/statutesrules/idstat/title18/t18ch66/>
- Idaho Title 19 Chapter 4-Time of Commencing Criminal Action
<https://legislature.idaho.gov/statutesrules/idstat/Title19/T19CH4/>
- Idaho Title 19 Chapter 53-Compensation of Victims of Crimes
<https://legislature.idaho.gov/statutesrules/idstat/Title19/T19CH53/>
- Idaho Title 19 Chapter 55-The Idaho DNA Database Act of 1996
<https://legislature.idaho.gov/statutesrules/idstat/title19/t19ch55/>
- Idaho Title 67 Chapter 29 (67-2919)-Testing and Retention of Sexual Assault Evidence Kits
<https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH29/SECT67-2919/>
- Idaho Crime Victim Compensation
<https://crimevictimcomp.idaho.gov/sae.html>
- Idaho Manual on the Rights of Victims of Crime
<http://www.ag.idaho.gov/publications/victims/VictimsRights.pdf>

Resources

Victim Resources

National Resources

- [Domestic Violence Legal Advice Line](#)
Hours of Operation: Monday-Friday* 8:30 a.m. - 2:30 p.m. (Pacific Standard Time) *Excluding holidays and other office closures
Toll-free (877) 500-2980
- [Futures Without Violence](#)
<https://www.futureswithoutviolence.org/whos-got-your-back-guide-for-addressing-sexual-and-intimate-partner-violence-in-campus-health-settings/>
- [National Sexual Assault Telephone Hotline](#)
800-656-HOPE (4673)
<https://www.rainn.org/>

Statewide Resources

- [Attorney General's Office Website](#)
http://www.ag.idaho.gov/victimAssistance/victimAssistance_index.html
- [Idaho Care Line](#)
211
<http://211.idaho.gov/>
- [Idaho Coalition Against Sexual & Domestic Violence](#)
Boise and surrounding area (208) 384-0419
Toll-free statewide (888) 293-6118
<https://idvsa.org/about-us/members/>
- [Idaho Council on Domestic Violence and Victim Assistance](#)
Boise and surrounding area (208) 332-1540
Toll-free statewide (800) 291-0463
<https://icdv.idaho.gov/directory.html>
- [Idaho Crime Victims Compensation Program](#)
Boise and surrounding area (208) 334-6080
Toll-free statewide at (800) 950-2110
<https://crimevictimcomp.idaho.gov/>
- [Idaho Department of Health and Welfare Sexual Violence Prevention Program Website](#)
<http://healthandwelfare.idaho.gov/Health/SexualViolencePrevention/tabid/200/Default.aspx>

- [Idaho Legal Aid Services](#)
Boise and surrounding area
(208) 345-0106
- [Idaho Parole Commission, Victim Services](#)
Boise and surrounding area
(208) 334-2520
- [Idaho Volunteer Lawyers Program](#)
Boise and surrounding area (208) 334-4510
Toll-free statewide (800) 221-3295
- [Victim Information and Notification Everyday \(VINE\)](#)
Toll-free (866) 984-6343

Central Idaho Resources

- [The Advocates](#)
Hailey and surrounding area
(208) 788-6070
- [The Mahoney House/Lemhi County Crisis Intervention](#)
Salmon and surrounding area
(208) 940-0600
- [Mini Cassia Shelter for Women & Children](#)
Rupert and surrounding area
(208) 436-0332
- [Voices Against Violence](#)
Twin Falls and surrounding area
(208) 733-0100 / (208) 733-2558 (Espanol)

Eastern Idaho Resources

- [Bingham Crisis Center](#)
Blackfoot and surrounding area
(208) 785-1047
- [Domestic Violence & Sexual Assault Center](#)
Idaho Falls and surrounding area
(208) 529-4352

- [Family Crisis Center](#)
Rexburg and surrounding area
(208) 356-0065
- [Family Safety Network](#)
Driggs and surrounding area
(208) 354-SAFE (7233)
- [Family Services Alliance of SE Idaho](#)
Pocatello and surrounding area
(208) 251-HELP (4357)
- [Oneida Crisis Center](#)
Malad and surrounding area
(208) 766-3119 / (208) 681-8715 (Espanol)
- [Shoshone-Bannock Tribes Victims of Crime Assistance Program](#)
Fort Hall
(208) 339-0438

Northern Idaho Resources

- [Alternatives to Violence of the Palouse](#)
Moscow and surrounding area
(208) 883-HELP (4357)
- [Boundary County Youth Crisis and DV Hotline](#)
Bonners Ferry and surrounding area
(208) 267-5211
- [Coeur d'Alene Tribal STOP Violence Program](#)
Plummer
(208) 686-6802
- [LillyBrooke](#)
Sandpoint and surrounding area
(208) 265-3586
- [Priest River Ministries](#)
Priest River and surrounding area
(208) 290-6529

- [Safe Passage](#)
Coeur d'Alene and surrounding area
(208) 664-9303
- [Shoshone County Crisis and Resource Center](#)
Wallace and surrounding area
(208) 556-0500
- [University of Idaho Victims' Rights Clinic](#)
Moscow
(208) 885-6541
- ['Úuyit Kímti Program \(New Beginnings\) \(formally known as the Nez Perce Tribe Women's Outreach Program\)](#)
Lapwai
(855) 803-4685
- [YWCA of Lewiston-Clarkston](#)
Lewiston and surrounding area
(208) 746-9655

Southwestern Idaho Resources

- [Ada County Indigent Services](#)
Boise and surrounding area
(208) 287-7960
- [Advocates Against Family Violence](#)
Caldwell and surrounding area
(208) 459-4779
- [Elmore County Domestic Violence Council](#)
Mountain Home and surrounding area
(208) 587-3300
- [Family Advocate Program](#)
Boise and surrounding area
(208) 345-3344
- [FACES \(Family Justice Center\)](#)
Boise and surrounding area
(208) 577-4403

- [Nampa Family Justice Center](#)
Nampa and surrounding area
(208) 475-5700
- [Rose Advocates](#)
Weiser and surrounding area
(208) 414-1231
- [Safe Place Ministries](#)
Boise and surrounding area
(208) 336-0200 or toll-free (888) 776-4443
- [SANE Solutions Victim and Family Services](#)
Boise and surrounding area
(208) 323-9600
- [Shoshone Paiute Tribes STOP Domestic Violence Program](#)
Owyhee County/Owyhee, NV
(775) 757-2013
- [Women's and Children's Alliance](#)
Boise and surrounding area
24-Hour Domestic Violence Hotline (208) 343-7025
24-Hour Rape Crisis Hotline (208) 345-7273

Professional Resources

- National PREA Resource Center
www.prearesourcecenter.org
- Idaho Sheriffs' Association
www.idahosheriffs.org / (208) 287-0424
- Southwest Idaho Juvenile Detention Center
Steven Jett, Director / (208) 454-7353
- Idaho Department of Corrections
Teresa Jones, PREA Coordinator / (208) 658-2138
tjones@idoc.idaho.gov / victimservices@idoc.idaho.gov (generic IDOC PREA e-mail)
Joe Blume
Joe.Blume@idjc.idaho.gov

Victim Needs & Rights

In the United States, nearly 1 in 5 women and 1 in 71 men have been victims of rape or attempted rape in their lifetime¹. In Idaho, 23.3% of women have suffered a completed or attempted rape, the sixth highest percentage in the nation, equating to an estimated 133,000 victims². Despite the high prevalence of sexual violence nationally and locally, only a small percentage of incidents are reported to law enforcement or medical personnel. According to the most recent estimates, more than three-fourths of rapes and sexual assaults are not reported to the police³. The top four reasons victims identify for not reporting sexual violence to the police include: fear of retaliation, belief that the police would not do anything to help, belief that it is a personal matter, and reported it to a different official⁴. Additionally, compared to victims of physical assault, victims of sexual violence are more likely to identify fear of not being believed as a reason for not reporting the incident to law enforcement⁵.

Considering the widespread impact of sexual violence and barriers to reporting, trauma-informed and victim-centered practices have been developed to combat sexual violence and improve victim satisfaction. A **trauma-informed approach** involves responding to survivors based on an understanding of the symptoms and impact of trauma. This includes recognizing victims' rights to be respected and informed of decisions affecting their life⁶. Similarly, a **victim-centered approach** involves prioritizing victim safety and well-being by actively seeking to minimize re-traumatization, providing support, and empowering victims⁷.

Under a trauma-informed and victim-centered approach, the role of providers is to:

- Create a safe environment by believing the victim and addressing their concerns.
- Provide clear explanations of all processes and options.
- Respect victims' decisions.

When implemented correctly, these practices have been shown to improve the psychological well-being of victims^{8,9} and ensure justice by improving case outcomes for law enforcement¹⁰. In practice, a trauma-informed and victim-centered approach includes a number of strategies which can be incorporated by medical providers, and criminal justice and social service personnel.

Guidelines for Victim-Centered, Trauma-Informed Care

Responding to individuals who have experienced sexual violence can seem daunting and intimidating. However, adhering to a victim-centered, trauma-informed approach is key to ensuring an appropriate response. It is important to recognize that sexual trauma often invokes in the victim a feeling of a complete loss of power and control. Thus, one of the main goals of victim-centered, trauma-informed care is to help survivors rebuild a sense of safety and empowerment. The practical recommendations described below can be used to promote these goals and effectively respond to individuals presenting with indicators of sexual trauma.

Understand the signs of trauma

Sexual violence can have acute and chronic impacts, both physical and emotional. Common emotional or behavioral responses that you may see exhibited include: guilt, shame, embarrassment, self-blame, and minimization of the event. In addition, due to the body's chemical response to trauma, victims may have trouble recounting and explaining the exact details of the assault and their emotional response may seem unexpected. For example, some victims may be outwardly distressed whereas others may display little emotion at all. However, these are all common responses to trauma. Be patient and understanding and allow them time to communicate and make decisions.

Recognize victims' individual needs

While there are some commonalities among sexual assault victims, it is important to recognize that each will have their own individual needs. For instance, some may fear negative repercussions that could occur by seeking a forensic medical exam or reporting to law enforcement. These fears could include: getting in trouble for using or abusing substances, being deported if undocumented, parental reactions if the patient is a minor, and having had previous negative encounters with law enforcement and/or medical personnel. It is also important to recognize that previous sexual assaults or other types of trauma victims have experienced can impact their emotional and behavioral responses. Finally, providing culturally sensitive and person-centered care can be vital. This can include considerations such as language barriers, immigration status, disability, and sexual orientation. For example, if the victim speaks a language you do not understand or cannot communicate clearly regarding sexual assault and the services you can provide, use an interpretation service. Never ask a victim's family member or friend to serve as an interpreter. Victim service providers can be extremely helpful in responding to these varying needs.

Respect patient privacy and choice

All healthcare environments should have a policy that allows the provider the opportunity to see their patients alone at some point in the visit. This is crucial for patients presenting with symptoms of sexual trauma because it is very possible the perpetrator is someone they know. When alone with your patient, ask who they would like to be in the room during the exam and follow-up, and if they are seeking a sexual assault forensic exam, ask if they would like the exam completed anonymously or if they would like the assault reported to law enforcement.

Describe processes, procedures, and options in detail and respect victims' right to make decisions about their care

Healthcare providers should assure their patients that they are in complete control of their care, including which treatments to receive and whether or not to have a forensic medical exam. For patients who do choose to have an exam, before the exam it is important to explain to them that they can request an anonymous exam and that they can choose to stop or omit portions of the exam at any time. In addition, it can be helpful to walk them through what will happen during the exam before you begin. Be honest about how long the exam may take, what medical treatment may occur, the evidence collection options, and the possibility that parts of the exam may trigger memories of their assault. Throughout the exam, check-in with the patient and ensure they want to continue. When the exam is

over, ask the patient if they would like to schedule a follow-up appointment or if they have any other needs or concerns.

Offer to contact a victim service provider and be aware of resources in your area

Victim service providers, which are described in more detail below, can include community-based victim advocates and victim witness coordinators. One of their primary goals is to assist and respond to the needs of survivors, which can include being present during the medical exam or legal proceedings. If a victim service provider is not already present, offer to contact one on behalf of the victim as early as possible. If you are unaware of providers in your area, please refer to the resources listed at the beginning of this document. If an adult victim chooses to complete an anonymous forensic exam or seeks medical treatment without an exam, only contact community-based victim advocates, as the involvement of a victim witness coordinator may be contrary to the victim's wishes and make it impossible for an exam to be considered anonymous.

Understand and describe options for evidence collection and reporting

Adults have the right to decide if they want to have a forensic medical exam, if they want to report to law enforcement, and the extent to which they want to be involved in the criminal justice process. These options, which are described in more detail below, give the victim a variety of choices in terms of evidence collection and reporting. They include: law enforcement report and evidence collection, anonymous report and evidence collection, and medical care without evidence collection. All options should be discussed with a survivor before they are asked to make any decisions about reporting or undergoing a forensic exam. (See Appendix B for Patient Option Information for Nursing and the Patient Option Card).

A patient option card should be provided to every sexual assault victim that presents for treatment. This card outlines the victim's choices for treatment and what steps are taken after the option chosen.

Tailor the victim's care to their experience

Ask the victim to describe their experience to you, to the extent with which they are comfortable, so that you may tailor their care and any evidence collection to it. This may include things such as conducting the exam in accordance with whether the assault included penetration and if it was vaginal, anal, and/or oral.

Prioritize patients who are sexual assault victims as emergency patients

Treat these patients as you would any other patient, addressing their presenting physical ailments first and foremost. Many healthcare providers are fearful of interfering with forensic evidence, but your primary role is to ensure the health of your patients.

In addition to these practical recommendations for victim-centered, trauma-informed care, it is important to be aware of the various evidence collection and reporting options so that victims are able to make an informed decision about how they wish to proceed.

Evidence Collection and Reporting Options

In Idaho, medical professionals and other mandated reporters are required to report to law enforcement any suspected incidents of abuse, abandonment, or neglect to a child under the age of 18. Thus, providers must alert local law enforcement of any underage patients who present with indicators of sexual assault. In order to promote choice and empowerment, victims should be made aware of these mandated reporting requirements as early as possible.

For victims who are 18 years of age or older, there are three main options available in terms of evidence collection and reporting. It is crucial that these options are clearly explained to victims and that they are given the opportunity to make their own decision about how to proceed. Timing considerations regarding evidence collection are important to consider as well (i.e., generally up to 120 hours after the assault for adolescents and adults; up to 72 hours for children).

Law enforcement report and evidence collection

A victim may choose to have evidence collected for testing and officially report the crime to law enforcement. If the victim makes this choice and law enforcement is not already present, medical providers should contact the appropriate law enforcement agency in which the assault occurred and document the name of the officer(s) who responded and the case number, if available. This option allows for the individual to receive medical care and promotes the timely collection of evidence and victims' ability to participate in the criminal investigation. The collected evidence will be sent to the laboratory for testing except as outlined in Idaho statute 67-2919. However, not all victims will be comfortable making an official report to law enforcement and/or having evidence collected and tested. If an adult victim does not want to report to law enforcement, law enforcement should not be contacted by any medical provider. As discussed above, sexual assault is an extremely traumatic event which can have immediate and long-lasting effects on behavior and cognition. Thus, two additional options are available.

Anonymous report and evidence collection

As per Idaho Statutes 67-2919 and 39-1390, adult victims may also choose to have evidence collected but remain anonymous to law enforcement (i.e., Jane/John Doe). This allows for the individual to receive medical care, as well as evidence preservation and the potential to make an official law enforcement report at a later date if they choose. With this option, evidence is collected without victim identifying information and turned over to law enforcement. Due to statutory and practical limitations, the evidence will not be sent to the laboratory for testing unless the victim elects to convert to a law enforcement report within the time period specified in Idaho Statute 67-2919.

Medical care without evidence collection

The third option available to adult victims is to receive medical care but decline the collection of evidence. As discussed earlier, there are a variety of reasons why a sexual assault victim may choose not to report to law enforcement or have evidence collected so this option allows them to receive any medical services they need. Selection of this option would likely preclude victims from having forensic evidence of the assault collected in the future to be used in a criminal investigation. Nevertheless, victims may make a report to law enforcement at any time, if they choose, regardless of whether viable forensic evidence exists.

Victims who do elect to report are guaranteed a number of constitutional rights. While these rights primarily rest in the purview of the criminal justice system, it is important for medical providers and other system personnel to be aware of them.

Idaho Crime Victims' Rights

Prior to the reforms of the Crime Victims' Rights Movement, victims of crime had very little interaction with the criminal justice system. However, Idaho, along with many other states, voted to give crime victims a voice in the judicial system. In November of 1994, the Victims' Rights Amendment, which was added to the Idaho Constitution in Article I, Section 22, asserted that:

Each victim of a criminal or juvenile offense shall be:

- Treated with fairness, respect, dignity, and privacy throughout the criminal justice process
- Entitled to a timely disposition of the case
- Given prior notification of proceedings and, upon request, given information about the sentence, incarceration, placing on probation, or release of the defendant
- Permitted to be present at all court proceedings
- Able to communicate with the prosecution
- Heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, placing on probation, or release of the defendant
- Receive restitution, as provided by law, by the person committing the offense
- Permitted to refuse an interview, ex parte contact, or other request by the defendant, or any other person acting on behalf of the defendant, unless such request is authorized by law
- Given the opportunity to read presentence reports relating to the crime

These rights are further enumerated in Idaho statute 19-5306. Medical providers and other system personnel should be familiar with these rights so that they can be communicated to and exercised by victims. Another crucial resource for explaining crime victims' rights and helping survivors to navigate the system is victim service providers.

Victim Service Providers

Victim service providers can include both victim witness coordinators and victim advocates. Victim witness coordinators work in a law enforcement agency or prosecuting attorney's office whereas victim advocates work in community- or tribe-based, social service agencies. Victim witness coordinators and victim advocates both provide a variety of services such as emotional support, crisis intervention, and accompaniment during medical exams and criminal justice proceedings, assistance with safety planning, and referral to community resources. While there are many commonalities among the services they provide, there are some differences as well which are listed below:

Law enforcement victim witness coordinator

- Accompanies detectives to the scene
- Serves as liaison during the investigation process
- Assists with Crime Victims Compensation
- Is not bound by confidentiality (may be required to disclose certain information)

Prosecutor’s office victim witness coordinator

- Attends criminal court with the victim
- Serves as liaison with the prosecutor
- Explains legal terminology
- Is not bound by confidentiality (may be required to disclose certain information)

Victim advocate

- Assists with Civil Protection Orders and safety planning
- May provide individual counseling and support groups within their agency
- May assist with housing and transportation
- May attend criminal and civil court proceedings with the victim
- Provides assistance regardless of whether the incident is reported
- Is bound by confidentiality

It is important that individuals be given the option to have a victim service provider present before, during, and after any medical care or evidence collection. These providers can further aid survivors in making informed decisions about how they wish to proceed.

Conclusion

The purpose of this chapter is to provide healthcare professionals, and criminal justice and social service personnel with important information and practical recommendations for providing victim-centered, trauma-informed care to sexual assault victims. These guidelines will aid in effectively responding to and supporting survivors of sexual violence, regardless of whether they choose to have forensic evidence collected or report the crime to law enforcement. Further information can be found at the resources listed at the beginning of this document.

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Best Practices

Medical Exam

We recognize that Idaho comprises a range of rural and urban communities with variable degrees of health care resources. This document provides recommended best practices and procedures that may not be available at all locations. It is intended to provide guidelines for responding to a reported sexual assault and may be modified as warranted by site-specific conditions and resources.

The primary focus of care is on the patient's physiological, psychological and spiritual needs. The patient must be treated with dignity and respect and provided competent and compassionate care, which allows the collection of physical and forensic evidence. All appropriate national, state, county and local reporting guidelines should be followed.

Guidelines for responding to all patients with reported sexual assault

- Sexual assault medical forensic examinations will be performed at the hospital or designated site/area they have established and according to the medical stability of the patient.
- Best practice for medical forensic examinations are ones performed by a medical provider trained in sexual abuse evaluation. This may include a Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), or Pediatric SAFE.
- Activate Law Enforcement (LE) in the jurisdiction where the assault reportedly occurred. Report to Child Protective Services for patients less than 18 years of age following the mandated reporting laws of Idaho, and according to hospital policy. Law Enforcement will contact the Victim Witness Coordinator/advocate (if available) as well as the medical provider trained in sexual abuse evaluation (in areas where an on-call team is established). Law enforcement or medical staff will also call the Pediatric SAFE provider (if available) for patients younger than 14 years if the assault occurred less than 72 hours prior. If the patient is a vulnerable adult, Adult Protective Services and the appropriate law enforcement agency will be notified immediately per state mandatory reporting guidelines (IC § 39-5303).
- The social worker or designated staff (RN, Case Manager, Advocate, etc.) should be involved for crisis intervention, coordination, and support of the reported victim and/or the victim's family if available. Any forensic interviewing will be performed by the CARES team (children at risk evaluation services), Law Enforcement, and/or Child Protective Services. Do not delay notification of law enforcement and/or transfer of the patient to designated established site if the social worker/designated staff member is not immediately available.
- Hospital consent to treat must be obtained prior to any exam. At any time the patient can choose to stop the exam completely or choose to only complete certain parts of the exam.
- Jane Doe/anonymous exam options are available to those victims 18 years of age or older. There is no patient identification information given to LE or the state crime lab. Victim does not have any interaction with LE unless they request it.

- Mandatory reporting is dependent on individual hospital policy and procedure.
- Information will be released to Law Enforcement according to the medical facilities HIPAA regulations.
- Current best practice guidelines suggests forensic evidence collection up to 120 hours after crime committed for adolescents and adults; up to 72 hours for children under age 14.
- The hospital physician will complete the medical screening exam and should consult with the SAFE or CARES examiner, or designated staff, for the forensic exam.
- Should the patient's medical status change during the medical forensic examination, the SAFE or designated staff will stop exam and notify the primary care nurse and physician to assist in providing further care and intervention.
- Chain of custody and handling of specimens is done in accordance with established hospital protocols for sexual assault forensic evidence exam/collection. Attention must be paid to cautious handling of any material collected for potential evidence. The person collecting the material should keep possession of the material until custody is transferred to the responding Law Enforcement agency.
- Any emergent medical condition will be assessed and treated as needed. Unless absolutely necessary, ensure patient does not remove clothing. If necessary, ensure each clothing item removed is placed in separate paper bags and each bag labeled with the patient's name, current date and time. Chain of custody will be maintained until placed into police custody.
- Ideally the victim should not void. If the victim has to void, he or she should not wipe before or after. Urine should be collected, placed on ice and chain of custody maintained.
- If there are no emergent medical conditions, per the providers discretion and orders, the medical interview, assessment, and treatment will be completed by the SAFE, or designated staff, depending on the hospitals policy.
- The SAFE or designated staff will remain with the patient during the entire process. The evidence will not be unattended once the kit is opened and until all the evidence has been collected and properly released to appropriate LE to prevent any contamination of evidence. Ensure evidence is locked in a secured area if SAFE or designated staff are required elsewhere temporarily. Evidence preservation will be considered when performing medical evaluation and procedures, but is secondary to medical treatment and care. At any time the patient can choose to stop the exam completely or choose to only complete certain parts of the exam.
- If the care of the patient is transferred to another SAFE, the evidence can be placed in the possession of the SAFE assuming the role. The chain of custody form must be completed and the transfer of care must be documented in the nursing notes and in the sexual assault (SA) forms.

- Documentation will be completed according to hospital policy and established processes with the SAFE or designated staff. Data/physical exam should include a description of the size, location, and appearance of any findings, or lack of findings, utilizing body diagrams in the SA forms.

Forensic Evidence Collection-Guidelines for medical forensic examination

History

- Patient's chief complaint
- Medical and surgical history, allergies, and immunizations
- If applicable, Last Menstrual Period (LMP), birth control methods, last consensual intercourse, and recent Sexually Transmitted Infection (STI) history
- Patient history of what occurred to include but not limited to: type of sexual acts, foreign objects, oral contact to areas of the body, vaginal or rectal penetration, ejaculation (body area involved) and if a condom was used
- Activity after assault, i.e. whether the patient voided, brushed teeth, wiped/washed external genitalia/other involved area, changed clothes, douched, showered or bathed

Non SAECK Evidence collection during exam

- Photography documentation to be completed according to local protocol
- The SANE/medical provider must wear gloves during entire procedure
- Collect clothing
 - Removal is completed at the discretion of the SANE or medical staff and Law Enforcement, depending upon the elapsed time of the incident and/or other contributing factors
 - Lay a sheet on the floor of the exam room and a large piece of bindle paper, (paper, drape, chux, or another sheet) on top of the first sheet to collect any fallen debris.
 - Have the patient stand on the bindle paper to undress.
 - Have patient place clothing in separate sections of the bindle paper. Patient may also hand each clothing item to SANE or medical staff one at a time. SANE or medical staff should then bag clothing over bindle paper to collect any debris.
 - Place individual clothing items in a separate paper bag
 - Each bag should be sealed and labeled with date, time, SANE or medical staff signature on the seal, as well as patient's medical label and the type of clothing/article.
 - Since the clothing may be collected and treated as evidence, the patient may require clothing to wear when discharged either provided by family/friend or the community support agency or hospital. Shoes are usually not treated as evidence, but it is at the discretion of the SANE or medical staff and/or law enforcement.
 - Have patient wear a hospital exam gown
 - Carefully fold the bindle paper/sheet to prevent the loss of any debris and place in paper bag and label it properly with date, time, SANE or medical staff signature, patient's medical label and item enclosed.
- Complete a head to toe assessment, observe for any signs of injury or medical concerns

Forensic evidence kits

Three potential evidence collection kits (instructions included in the kits) provided by ISPFS can be utilized. These include the sexual assault evidence collection kit (SAECK), urine kit, and blood kit.

Utilization is dependent on collaboration between law enforcement and SAFE or designated staff.

- Ensure proper supplies within the kit are present.
- Verify expiration date; open the sealed kit prior to use. If the blood kit has expired, you may replace the grey top tube with a current dated tube. Document that you have done so, and proceed using the kit.
- Follow instructions in the blood kit for collection of samples for blood alcohol.
 - If drugs other than alcohol are suspected a urine kit should be collected.
- Follow instructions in the urine kit for collection of samples for urine toxicology.
 - Collect first voided urine.
 - Patient should not wipe after void, if patient must wipe, have patient use sterile 4X4 gauze to wipe and package the gauze separately.
 - Do not package the gauze with the urine kit or submit for toxicology testing.
- Obtain pregnancy test if patient is of appropriate age and sex, and complete at bedside if one was not completed by the Emergency Department.
- Use provided supplies in the SAECK kit.
- A blood sample is required for the victim reference sample. A blood stain card is contained in the kit for use.
- Four swabs each are needed for vaginal, oral, anal, and external genitalia areas (use the other swab envelope with two additional swabs for external genitalia collection). Additional swabs may be needed if dried secretions are located in other areas.
 - Oral, perineum, vaginal, and anal swabs should be routinely collected on every patient and all four swabs used. External genitalia and anal swabs require a minimal amount of sterile or saline water to moisten swab.
- Oral swabs to include areas of teeth, tongue, gums and cheeks.
- For anal swabs, insert past sphincter (just to the dentate line), twist gently.
- Lubricating jelly may be used for speculum insertion. Collect swabs in cervical OS and vaginal wall. Speculum may be used if SMR 3 or greater.
- All swabs should be dried for minimum of 60 minutes with a dryer, if available, and then placed in specific labeled envelopes and sealed. If a dryer is not available place swabs in a secure area to dry.
- If specimen is unable to dry i.e. a tampon, that was inserted prior or after assault, remove it and place in container and notify crime lab/detective in order for proper and immediate storage. Tampons should be packaged separately from the sexual assault kit (i.e. in a small paper evidence collection bag).
- Miscellaneous swabs if there are any dried secretions, foreign substance, or oral contact on any other areas of the patient's body. Document location and suspected body fluid type.
- Foreign material collection- this envelope is used for hair, fibers or debris that have originated from a source other than a patient. Place material on paper and fold and place in envelope, seal and label. Include a description of what was collected and collection location.
- Pubic combing to collect any loose hairs or debris. Place paper under the area to collect any debris or hair, comb through several times. Place comb inside paper and fold the paper and place in envelope. Seal and label. If patient does not have pubic hair document as such.

- The Wood's lamp or alternate light source may be used by the SANE or medical staff to determine if any fluorescent staining is present.
- Any area of fluorescence will be documented on the body diagram and swab sample collected.
- Toluidine Blue Dye (TBD) may be used at the discretion of the SANE or medical staff. Photo documentation and external swabs of genitalia need to be completed prior to TBD application and speculum insertion. Additional photo documentation is suggested following the TBD application.
- SANE or medical staff needs to initial across the sealed envelope.
- Complete the patient information and sexual assault history form that is included in the sexual assault evidence collection kit.
- Return all swabs, blood stain card and completed form back into kit. Label, date, time, seal with provided evidence tape and initial. Complete chain of custody information located on the outside of the kit.

Additional patient care

- Depending on patient's condition, any or all may be ordered by the hospital provider, with consent of the patient.
 - Tetanus update
 - Nausea medication
 - Antibiotic therapy for prophylaxis for Sexually Transmitted Infections (STI)
 - Antifertility medications

Discharge/Aftercare

- Discuss aftercare instructions with patient only, unless patient gives permission for family/friend to be present.
- Refer to hospital or organizations discharge instructions. Give sexual assault discharge instructions as available.
- Instruct patient for follow up with private physician or clinic of their choice in 2-3 weeks or sooner if new injuries or concerns appear.
- Give referrals as indicated for counseling services and other community resources as available.
- Provide victim with the Victim Notification Form and kit tracking number.
- Follow up with law enforcement as directed.

Guidelines for responding to patients younger than 14 years of age with reported sexual assault

- A Pediatric SAFE examination will be initiated by the Emergency Department (ED) Provider in collaboration with law enforcement, if an emergent exam is required. This examination should be conducted by a pediatric trained Sexual Assault Nurse Examiner (SANE) if available. If a pediatric trained SANE is not available the examination should be conducted by the ED physician.
- If an alleged victim of sexual abuse or assault is assessed by the ED physician to be in stable condition or without an illness or injury requiring immediate or urgent medical intervention, the ED physician will obtain initial information from the caretaker and confer with the Pediatric SAFE examiner on-call for emergent patients if available.

- A screening tool may be utilized for child abuse and intimate partner violence. Identified concerns will be reported to the proper agency according to law.
- If a patient makes a disclosure of sexual abuse or is discovered to be a victim of sexual abuse while admitted to the hospital, the social worker or designated staff, will notify Child Protective Services and Law Enforcement.

In general, triage of pediatric victims of reported sexual abuse or assault should be performed as follows:

Emergent

Any child younger than 14 years, alleging sexual contact of the mouth, vagina, or anus in the past 72 hours or a pediatric patient with active bleeding.

- Patient examination will begin when a trained medical provider is present.
- The trained medical provider in sexual abuse may either respond to the ED to examine the patient or may have the patient transferred to the appropriate outpatient facility (such as CARES Clinic) for an examination after the medical screening exam has been completed and the victim can be safely transferred.
- If the patient is transferred to outpatient facility, the ED RN will document in the medical record to whom or what facility the patient was discharged. The documentation will include the plan for treatment and follow-up.
- If the exam occurs in the ED, the RN will complete the normal nursing discharge documentation. The trained medical provider or Pediatric SAFE should collect any forensic evidence.
- Chain of Custody: All evidence collected while the patient is at the medical facility shall be maintained there until the chain of custody is transferred to law enforcement.

Scheduled

Any child younger than 14 years alleging sexual contact occurring greater than 72 hours prior to presentation:

- The patient will be medically screened according to ED policy. Comprehensive medical assessment will be performed at the designated outpatient facility as coordinated by law enforcement, child welfare, and the local child abuse team.
- Law Enforcement and/or Child Protective Services will schedule an evaluation at indicated facility (i.e. CARES, advocacy center, ED, clinic, advocacy center, etc.) if indicated.
- ED staff will document disposition.

If the ED provider has questions, they are encouraged to call their local medical provider trained in sexual assault evaluation if available. St. Luke's CARES in Boise is available to discuss any case issues (208-381-2222).

References

- American Nurses Association and International Association of Forensic Nurses (2009) Scope & Standards of Practice. 23-31
- National Training Standards for Sexual Assault Medical Forensic Examiners (2006), NCJ 213827; <https://www.ncjrs.gov/pdffiles1/ovw/213827.pdf>

Confinement Settings Sexual Assault

In the United States more than 216,600 people are sexually abused in detention every year. In an effort to “provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape” Congress passed the Prison Rape Elimination Act (PREA) in 2003. The act created the National Prison Rape Elimination Commission with the purpose of developing standards, published in 2009, for the elimination of rape in confinement. The Department of Justice reviewed and finalized the rule in 2012.

The Idaho Department of Correction and all 36 County Jails are employing the standards and seeking PREA certification. In order to certify, law enforcement, victim service providers, and medical staff must adhere to the Prison Rape Elimination Act standards when responding and/or investigating sexual assault in Idaho’s confinement settings.

Standards relating to the Official Response Following an Inmate report §115.61- §115.68, Investigations §115.71-§115.73 and Medical and Mental Care §115.81-§115.83 can be found on the National PREA Resource Center website www.prearesourcecenter.org.

The purpose of this chapter is to ensure law enforcement, victim service providers, and medical staff are knowledgeable and compliant with PREA standards which are designed to deliver the same level of trauma-informed care to victims in custody as those who are not. The standards take into consideration the unique obstacles victims in custody experience which include but are not limited to being exposed daily to their abuser and/or location of abuse. Victims not in custody may have similar obstacles however confinement limits a victim’s ability to avoid these triggers of sexual trauma symptoms. Additional information and resources on PREA are listed below.

Resources

- National PREA Resource Center
www.prearesourcecenter.org
- Idaho Sheriffs’ Association
www.idahosheriffs.org / (208) 287-0424
- Southwest Idaho Juvenile Detention Center
Steven Jett, Director / (208) 454-7353
- Idaho Department of Corrections
Teresa Jones, PREA Coordinator / (208) 658-2138
tjones@idoc.idaho.gov / victimservices@idoc.idaho.gov (generic IDOC PREA e-mail)
Joe Blume
Joe.Blume@idjc.idaho.gov

Law Enforcement Sexual Assault Investigation

Assign a tracking number for every reported sexual assault offense and document each report in writing

Even if an incident does not meet the elements of a sexual offense, a written report should be saved as an information report. Preserving information reports affords potential pattern identification with serial offenders, a return to cases as more information develops, and promotes supervisory review.

All reports should be taken as valid unless evidence proves otherwise

- Do not rush to decide if a report is an information or crime report. This decision should be based on evidence collected through the investigation.
- A report should not be labeled “false” or unfounded as a result of the initial victim interview or perceived victim reaction to the sexual assault.
- Victims of sexual assault may recant or decline prosecution for various reasons (e.g. fear of retaliation by the offender, concern about not being believed, hesitancy regarding the criminal justice system, and loss of privacy).
- A victim’s reluctance to participate is neither indicative of a false report nor reason to forego a strong, evidence-based investigation.
- Case coding and clearance decisions should be based on careful analysis of evidence identified through an investigation.

Ask the victim to describe the assault, listing as many details and feelings as possible

- It is critical to capture the details necessary to establish elements such as premeditation/grooming behavior by the perpetrator, coercion, threats and/ or force, and traumatic reaction during and after the incident (e.g. demeanor, emotional response, changes in routines or habits).
- Document the elements of the crime by asking the victim to tell you what they thought, felt, and feared at the time of the assault.
 - What was the victim experiencing before, during, and after the sexual assault?
 - What did the victim see, smell, taste, hear, or touch during the incident?
- Document the victim’s condition as observed.
- Fully document fear by recording all fight, flight, or freeze reactions the victim exhibited. For example, the victim may describe feeling unable to move.
- Silence is not consent. “No” or resistance is communicated through more than just words. Detail and corroborate what “No” looked or felt like for the individual victim in your report (e.g. looking away, closing eyes, positioning or moving body).
- Create a timeline to show trauma/post-assault behavior of the victim in context of previous behavior. For example, document dramatic physical changes such as weight loss/gain or reported changes in daily routines and/or work performance.

Document all information given by the victim, even if it does not cast them in the best light

- The reality is that victims who may be judged as unreliable witnesses may have been chosen by the perpetrator for that reason.
- Use the victim’s exact words and place those words in quotations. Do not sanitize or “clean-up” the language used by the victim. Altered language may be used against the victim or officer in court.
- Every effort should be made to exclude officer opinion in the written report and to avoid asking leading questions. This can compromise the integrity of the entire report and the credibility of

the victim and officer. It is normal for a victim to not know or remember complete details; do not try to fill in the gaps for them.

- If the victim was incapacitated as a result of voluntary alcohol or drug use, show why this is an issue of increased vulnerability rather than culpability

Report Writing Considerations and Potential Suspect Defenses

The following are four common sexual assault defenses and strategies to counter these defenses in the written case report.

- **Denial:** Collect and document evidence to establish that (nonconsensual) sexual contact did occur
- **Identity:** Collect and preserve DNA samples from the victim and suspect, and other physical evidence from the crime scene(s); document witness statements
- **Consent:** Document fear, force, threat, coercion and/or inability to consent
- **Impeachment by Contradiction:** Document any changes in victim/witness statements, especially as additional details are recalled following the initial trauma/shock of the assault

Note: Because the majority of sexual assaults are perpetrated by someone the victim knows (even if just briefly or casually), the difficulties in prosecution are not based upon whether the correct suspect has been identified or sexual contact occurred. The burden for the prosecution is proving that the act was nonconsensual (i.e. the perpetrator claims that the contact was consensual)

If the facts obtained from the investigation indicate use of force by the perpetrator, document using language that reflects this

- If at some point a consensual encounter turned nonconsensual, ask the victim to describe details about how and when the perpetrator's behavior changed.
- Documentation should reflect a lack of consent. Avoid wording that implies consent. For instance, "he forced his penis into her vagina" denotes lack of consent while "he had sex with her" implies consensual intercourse.
- In documenting force, be specific. "He threatened me" is vague. List the specific threats that were made, tones used, gestures and/or looks given.
- Victims may not be able to resist physically. This may be an indicator of force or fear and should be documented.
- Perpetrators of sexual assault generally use only as much violence as needed to attain submission. Force or violence may not be overt if the perpetrator can commit the crime by using lesser means (i.e. a weapon isn't needed when you can use threats, alcohol, etc.)
- The mere presence of a perpetrator and/or the verbal tactics they employ can be seen as force and should be documented as such. An example of this is the Use of Force Continuum utilized by law enforcement that starts with the mere presence of an officer, followed by verbal commands. Should an individual comply with either of these, no additional force would be needed or justified.

If your department has specialized investigators:

- The first responder should conduct a preliminary interview gathering just enough information to determine whether the elements of a crime have been met and by whom.

- The in-depth interview should be left to the investigator in order to decrease account repetition and reduce the possibility of inconsistent information that could be used against the victim's credibility in court.

Victim Interview

Due to the particularly intimate and intrusive nature of sexual assault, the interview process may be difficult both for the victim and the officer. Recognize the significance the victim's initial contact with first responders and investigators will have on their trust in the criminal justice system. The treatment the victim receives during the interview may impact the victim's decision to go forward with the case.

Respect the victim's immediate priorities

- Attend to the victim's immediate health and safety concerns and questions about reporting and the criminal justice process before beginning the interview.
- Victims have a right to accept or decline all services. This does not mean that a thorough investigation should not be conducted.
- Help victims gain back a sense of control by involving them in the decision of when and where to hold the interview.

Build a rapport with the victim

- Victims may know little about the investigative process and may find the criminal justice system confusing, intimidating, or even frightening. Explain all processes during each step of the interview and investigation. This creates transparency and trust for the victim while helping to restore the victim's sense of control.
- Assure the victim that they will not be judged and that the information reported is being taken seriously.
- Victims of sexual assault often blame themselves. Reassure victims that, regardless of their behavior, no one has the right to sexually assault them.

Ask the victim if they would like to have a support person present for the interview

- It is best practice to allow victims to have an advocate or a support person of their choosing present during the medical exam and/or law enforcement interview. Ask the victim privately who they would like present and take action to support their wishes.
- While victims are entitled to have someone with them during the interview, look for signs of:
 - Hesitation from the victim in revealing all of the details of the assault in front of someone with whom they are close, like a spouse or parent.
 - Controlling or intimidating behavior by the support person towards the victim.
- Provide victims with written contact information for community referrals.

Recognize the impact of trauma and how this affects an individual's behavior.

- People react differently to trauma. Lack of emotion or the presence of emotion is not an indicator of the legitimacy of the assault, and either is common.
- Research shows that most victims of sexual assault never make a report to law enforcement. Of the victims who report, the majority do so after some delay. A delay in reporting should never deter a thorough investigation. A skillful prosecutor will be able to overcome any disadvantage a delay in reporting might cause when making the case in court.

- Most victims experience continuing trauma which may affect their physical, emotional, social, and economic state of being.
- Victims may experience difficulty remembering all the details of the sexual assault due to traumatic response. This does not mean they are lying or leaving out details intentionally. Often with time and as trauma recedes, details will emerge.
- After sufficient time to conduct a thorough investigation, schedule a follow-up interview to gather any information the victim may have missed or not recalled earlier and to ask about or clarify additional information learned.
 - Unless there are exigent circumstances requiring an arrest or identification, delaying the follow-up interview will generally enhance the investigation and the quality of information obtained.

Do not polygraph victims

The practice of submitting victims of sexual assault to a polygraph exam intimidates victims and destroys the trust victims and the community have with law enforcement. Polygraphing negatively affects law enforcement's chance to successfully investigate sexual assault crimes.

Do not pressure the victim to make any decisions regarding participation in the investigation or prosecution during the initial interview or initial stages of the investigation

- Sexual assault victims are often reluctant to actively participate with case proceedings. Document any information the victim shares, as this may aid in the identification and apprehension of a serial offender.
- A victim's right to change their mind regarding moving forward with the investigation and prosecution should only be constrained by the statute of limitations. Even then, the victim may serve as a witness in another case involving the same suspect, so an interview and investigation should always be conducted.
- Pressuring a reluctant victim to sign a form stating that they are not interested in prosecution and will not hold the agency accountable for stopping the investigation is poor practice and is potentially damaging to an agency.
- Victim follow-up builds trust with victims and sends a message to the community about the seriousness with which an agency handles sexual assault crimes.

Provide victims with information on how to obtain medical treatment and undergo a forensic exam

- Sexual assault examinations will be provided to victims at no cost. The Crime Victims Compensation Program can be contacted by law enforcement to cover the cost of the examination.
- Explain the medical significance of a sexual assault forensic examination, including testing for sexually transmitted infections and HIV. (Appendix B, Patient Option Card)
- Notify the victim of locations where a sexual assault forensic examination is available in the community. If department policy allows, transport the victim to the local rape crisis center or hospital.
- Should a victim initially decline a forensic medical examination, provide information as to where the victim may obtain an exam at a later time.
- Physical evidence can be collected up to 120 hours (adult victims) following a sexual assault. The victim should be advised, however, that critical physical evidence and documentation of injuries may be lost with a delayed exam.

Sexual Assault Evidence Collection Kit (SAECK) collection and the Idaho Kit Tracking System (IKTS):

- Medical Provider (SANE Nurse, Nurse Practitioner, Physician’s Assistant, MD, etc.) collects evidence from the victim’s body and seals that evidence into the SAECK box. Standard chain of custody procedures should be followed for sealing and signing seals as would be done with other evidence.
- Medical provider hands off the sealed SAECK to the Law Enforcement (LE) officer. Chain of custody should be known and recorded throughout this process so that a kit is never outside someone’s physical custody.
- SANE or medical provider logs into IKTS (<https://www.isp.idaho.gov/SexualAssaultKitTracking/>) and “releases” the SAECK from the medical entity to the LE agency.
- LE officer either books SAECK into property/evidence of their agency, where the kit is packaged and mailed to Idaho State Police Forensic Services (ISPFS) Lab, or the LE officer can transport the kit directly to the lab if proximity allows.
 - For kits **being** submitted to ISPFS (per IC § 67-2919), the LE officer needs to complete the “pre-log” (<https://ilims.isp.idaho.gov/prelog/LIMSPrelog/>) through ISPFS’s ILIMS system and that paperwork needs to accompany the SAECK to the ISPFS Lab.
 - Please contact ISPFS for information on adding pre-log users
 - For kits **not being** submitted to ISPFS at that time (per IC § 67-2919), the LE officer will need to book the SAECK into property/evidence.
 - Once the destination of the kit is known, the LE officer must “release” the SAECK in IKTS (<https://www.isp.idaho.gov/SexualAssaultKitTracking/>) by tracking number to property/evidence or ISPFS.

Note: Other evidentiary items related to the investigation, but not included in the SAECK (i.e. clothing, reference sample buccal swabs from suspects or consensual partners, etc.) are not regulated by IC § 67-2919, but still need to be collected and packaged per your agency’s evidence protocol. Reference samples from suspects and any consensual partners are to be submitted along with SAECK to ISPFS. The LE officer should contact lab personnel to seek guidance prior to submission if other types of evidence need to be submitted (i.e. clothing, bedding, etc.), or if a required reference sample cannot be obtained within the IC § 67-2919 submission requirement.

TESTING AND RETENTION OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS (IC § 67-2919)

Except as provided in Title 67-2919, evidence obtained in a sexual assault evidence collection kit shall be tested by the Idaho State Police Forensic Services Laboratory according to the current sampling protocols and procedures established by the laboratory.

Important Highlights:

- Sexual Assault Kits are provided to victims at no charge. Kits are provided by ISPFS.
- Kits will be forwarded to ISPFS no later than 30 days from the collection date. A DNA reference sample should be collected from any named suspect(s) and/or consensual partner(s) and submitted along with the kit. If extenuating circumstances prevent collection of a required reference sample ISPFS should be contacted prior to submitting the kit.

- Law Enforcement agencies holding completed kits for another agency must notify that agency within 7 days. The notified agency must retrieve the kit within 7 days.
- All SAECKs collected in this state that are eligible for testing per IC § 67-2919 shall be processed by ISPFS

Retention of Sexual Assault Kits

- Following analysis by ISPFS, sexual assault evidence collection kits and any remaining DNA extracts shall be returned to and retained by the investigating agency in accordance with agency evidence standards and for the durations outlined in IC § 67-2919:
 - For death penalty cases, until the sentence in the case has been carried out and no unapprehended persons associated with the offense exist.
 - For felony cases, including anonymous sexual assault kits collected under the violence against women act, fifty-five (55) years from the collection of the kit during the medical examination or until the sentence in the case is completed, whichever occurs first.
 - For cases where there is no evidence to support a crime being committed, when it is no longer being investigated as a crime or when an adult victim expressly indicates that no further forensic examination or testing occur, ten (10) years from collection of the kit during the medical examination.

Victim Notification

- Per IC § 67-2919 a law enforcement agency holding a SAECK shall, upon written request, notify a victim of sexual assault, a parent or guardian if the victim is a minor at the time of notification, or a relative if the victim is deceased, of the following (“notify” shall include updates to the IKTS website used by ISPFS for tracking of sexual assault evidence collection kits):
 - When the sexual assault evidence collection kit is submitted to ISPFS (information available in IKTS)
 - When any evidence sample DNA profile is entered into the Idaho DNA database (information available in IKTS)
 - When a DNA match occurs; provided however, that such notification shall state only that a match has occurred and shall not contain any genetic or other identifying information (information available in IKTS)
 - When there is any change in the status of their case or reopening of the case

CODIS Match Follow-up

If you are notified of a CODIS match the case investigator will receive a report from ISPFS through ILIMS stating a match occurred with either a convicted offender or another forensic evidence sample.

- In the event of a match with an offender sample the report will contain the offender’s name and a request for submission of a reference sample from the offender for confirmation of the match. ISPFS will follow-up with a phone call or e-mail to the investigator with additional information.
 - The investigator will need to locate the subject and obtain a DNA reference sample from them either with consent or with a detention warrant. Convicted offender samples are not considered evidentiary because they do not have a chain of custody. The second sample is necessary to confirm the match.
 - The case investigator will need to submit the reference sample to ISPFS for confirmation of the match.

- If you do not intend to collect a reference sample from the subject for verification of the match you must contact ISPFS.
- In the event of a match with a sample from another case (forensic match), case information for that sample will be listed. ISPFS will follow-up with a phone call or e-mail to the investigator with additional information.
 - The investigator should follow-up with the other law enforcement agency to determine if additional information is available.

Suspect Interrogation

While investigative emphasis has historically focused on the victim’s behavior, the reality of this type of crime is that the suspect is often known to the victim and thus can be identified easily. An effective investigation will concentrate on gathering as much evidence as possible on the suspect.

Focus the investigation on the suspect rather than the victim

- As with other crimes, focus should remain on the suspect, not on the victim’s character, behavior, or credibility.
- If the suspect invokes the constitutional right to remain silent, investigating officers must still evaluate the circumstances of the assault in order to anticipate the suspect’s defense strategy.

Allow the suspect ample opportunity to give an account of the incident

- Many perpetrators of sexual assault will provide information in an attempt to justify their actions.
- Pretext phone calls are a strong tool to be considered when the victim and suspect know each other. The transcript from a monitored call can provide useful evidence as facts are corroborated and the suspect makes admissions or gives improbable statements.

Obtain consent, acquire a court order, or act under exigent circumstances to secure evidence from the suspect’s person

- Like the victim, the suspect’s body carries evidence and can potentially confirm aspects of the victim’s account (e.g. identifying marks, injuries, DNA material).
- In some jurisdictions, a suspect forensic exam can be done incident to arrest or by requesting a court order for non-testimonial evidence.
- Have a working relationship with your prosecutor’s office to know when it is appropriate to seize evidence from the body of a suspect under exigent circumstances to ensure the evidence is not destroyed or degraded.

Investigation

Strong sexual assault investigations are supported by physical evidence and do not rely solely on the victim or the perceived credibility of the victim. Remember, the overall intent of any investigation is to be fair, balanced, and thorough. Gather all physical and testimonial evidence.

Build trust by partnering with the victim, showing respect, and remaining nonjudgmental

- A victim-centered approach will aid the interview process and allow for as much evidence to be gathered as possible.
- In most cases the suspect is familiar to the victim, so the victim may be able provide corroborating details and evidence.

- Remind the victim that, due to the nature of trauma, it is typical not to remember all of the details of the sexual assault. Think out loud with the victim to identify new information in the victim’s account that may be used as evidence. This process may help jog additional memories.

Thoroughly investigate and document the suspect’s conduct prior to the assault

- Grooming behavior which may be indicative of premeditation is often used to test, select, and isolate victims and to make the potential victim feel comfortable and able to trust the perpetrator.
 - Why did the suspect choose this victim? What might make her/him less credible and/or more vulnerable?
 - How did the suspect create a situation to build trust?
 - Did the suspect monitor the victim physically or through electronic means?
 - What was the role of alcohol and/or drugs?
 - Did the suspect isolate or attempt to isolate the victim?
 - Why was the specific location for the assault chosen?
- Sexual assault cases are typically portrayed as “he said/she said” but in reality are often “he said/they said” cases. Perpetrators of this crime frequently have a history of acts of sexual violence. Previously unreported offenses may be found by interviewing the suspect’s social circles, current and former partners.
- Prior victims should be interviewed and their statements included in the current investigation.

Do not overlook the importance of witness statements/testimony

- Victims will often confide in someone (e.g. a close friend). These individuals are considered “outcry witnesses” and their statement can provide powerful corroboration.
- Suspects often boast or brag about their sexual encounters to a friend or friends. These individuals are also considered “outcry witness” and their statement(s) can provide powerful corroboration of the details of the assault.

Keep in mind the co-occurring nature of violence crimes and what other crimes may have been committed

- Sexual assault may occur in the context of domestic violence.
- Monitoring and surveillance are often pre-cursors to sexual assault. Look to see if stalking charges may apply.
- Remain open to the possibility of drug-facilitated sexual assault. Victims of a drug-facilitated assault may report black-outs, gaps in time and memory, and a general uncertainty as to whether or not an assault occurred.
- Additional crimes to look for include: theft, property damage, false imprisonment, human trafficking, kidnapping, abduction, administering an illegal substance, poisoning, witness tampering, etc.

Ensure every report, including every information report, is reviewed

- Establish and train officers on guidelines and procedures adopted by the agency.
- Create a system to review the coding and clearing of sexual assault cases with particular attention to reports determined to be false or unfounded.

Working with Vulnerable Populations

Predators prey upon the vulnerabilities of others; therefore, victimization is often higher among certain populations. When investigating a sexual assault, be aware of particular issues that may face certain populations (i.e. age, culture, disabilities, gender, language) and how this might affect the way a victim makes decisions and responds to law enforcement.

Resources

- Idaho State Police Forensic Services Pre-log website
<https://ilims.isp.idaho.gov/prelog/LIMSPrelog/>
- Idaho Sexual Assault Kit Tracking website
<https://www.isp.idaho.gov/SexualAssaultKitTracking/>
- Idaho State Police Forensics website
<https://www.isp.idaho.gov/forensics/>

Forensic Laboratory

Sexual Assault Evidence Collection Kits (SAECK) are analyzed by the laboratory first to determine if a body fluid or male DNA (female victim kits) is present. If either are indicated on an item(s) from the kit the laboratory may proceed with DNA testing of that item, with the purpose of generating a DNA profile suitable for comparison and/or Combined DNA Index System (CODIS) entry. DNA analysis is a comparative process. Without reference samples from the victim, known suspect(s) and consensual partner meaningful comparisons may not be possible. A lack of necessary reference samples may also prevent CODIS entry.

SAECKs meeting the requirements of Idaho Code 67-2919 that are accompanied by the required reference sample(s) will be accepted by the Idaho State Police Forensic Services (ISPFS) laboratory for testing. Any kits lacking the required references may be returned to the agency unless prior discussion/notification has occurred as to why the reference sample(s) are not available. If a suspect(s) has been identified a reference sample from that individual is required for analysis. In addition, if the victim had a consensual partner within 96 hours of the assault a reference sample from that individual is also required. Evidence must be pre-logged (<https://ilims.isp.idaho.gov/prelog/LIMSPrelog/>) prior to submission to the laboratory. Submitted SAECKs will be worked in the order in which they are received into the laboratory unless the laboratory is notified of a public safety issue, extenuating circumstances, or pending jury trial date necessitating rush analysis.

The ISPFS laboratory is accredited under ISO 17025 accreditation standards. All biology screening and DNA analysis of SAECKs shall be done according to the laboratory's current ISO 17025 compliant analytical methods and in accordance with the current FBI Quality Assurance Standards for Forensic DNA Testing Laboratories. Once analysis has been completed a report will be issued and available through the ISPFS pre-log system.

All CODIS eligible profiles generated by ISPFS will be uploaded to the National (NDIS) and/or State (SDIS) DNA index system. In order for a profile to be eligible for CODIS entry it must be related to a crime, believed to be from the perpetrator of that crime, and cannot be generated from an item directly associated with the suspect (i.e. his/her clothing, body swabs, etc.). It must also meet Idaho's and/or the FBI's current completeness definitions. Profiles entered into the database are routinely searched against new profile uploads. They are compared against both the convicted offender index (convicted offender sample profiles) as well as the forensic index (profiles generated from items of evidence). In the event of a match with a convicted offender profile or a forensic profile the agency will be notified by the laboratory and a Database Search report will be generated and available through the ISPFS pre-log system. It is the agency's responsibility to follow-up on all CODIS matches or notify ISPFS as to why follow-up will not be completed.

Legal

The primary role of prosecution is to see that justice is accomplished. In cases of sexual assault, this means protecting the safety and rights of the victim and community by holding the offender accountable. To accomplish this goal, prosecutors must work in a coordinated and collaborative fashion with the victim, law enforcement, advocates, medical professionals and crime labs. Prosecutors are responsible for assessing reports of sexual assault to determine if enough evidence exists or could be obtained to file criminal charges. Prosecutors must also consider the ethical issues of whether or not to file criminal charges.

Please note, these guidelines not advocate altering the level of discretion entrusted to the prosecutor; however, it does endorse consideration of the victim's needs in exercising that prosecutorial discretion. A sexual assault victim deserves to be informed about the reasons that motivate decisions about the case, especially when those decisions might appear to be contrary to his/her expressed interests.

Vertical Prosecution

Vertical prosecution is recommended in all sexual assault cases. Vertical prosecution means the same prosecutor, who has specialized training and/or experience in sexual assault cases, is assigned to the case from beginning to end. With vertical prosecution, victims are able to work with the same prosecutor and investigator from the time potential charges are first reviewed through the sentencing of the offender.

Meeting with the Victim

It is recommended that prosecutors meet with the victim prior to making a determination about whether or not to charge the defendant. Meeting with the victim gives prosecutors increased insight not available through written reports. Meeting with the victim is also part of being victim-centered; it demonstrates to the victim that the prosecution is taking the case seriously and provides an opportunity to build trust between the victim and the prosecutor. A victim-witness coordinator should be present during meetings with the victim whenever possible.

When meeting with a victim, if the prosecutor plans on discussing the facts of the case, it is recommended that the investigating officer or other law enforcement personnel be present. In the event the victim provides new or different information, law enforcement can document the information in a report and, if necessary, testify at trial. Failure to have a witness present could result in the prosecutor becoming a witness.

Meeting with the victim also provides an opportunity to review the case from the victim's perspective, explain the process, uncover details that may have been overlooked in the initial investigation, and determine what outcome the victim is seeking. Creating a safe environment for the victim to discuss all relevant facts and offer them a perspective regarding the sexual assault is essential to obtaining a full picture of the case. In order to do this, a prosecutor, along with the victim witness coordinator, should attempt to establish rapport by:

- Conducting the meeting in a place where the victim feels safe and is able to speak freely.
- Allowing adequate time for the meeting.

- Answering the victim’s questions as fully and accurately as possible.
- Adopting a non-judgmental and “seeking to understand” perspective in speaking with the victim.
- Explaining the legal process associated with the prosecution of a sexual assault, and the prosecutor’s discovery obligations, including the accumulation of relevant materials and the disclosure and admissibility of sensitive and potentially privileged information concerning the victim (e.g., medical records).
- Reminding the victim that what they share with family and friends is not privileged information and is subject to subpoena; explaining the right of privilege held by social workers and counselors.
- Reviewing the victim’s rights and explaining the victim’s role throughout the prosecution process.
- Inquiring about any threats defendants have made toward victims and respecting and supporting the victim’s efforts to maintain their safety.

Victims Who Choose Not to Participate in Prosecution

A victim-centered approach also means that prosecutors should support victims who choose not to cooperate in moving the case forward. There are a variety of reasons why a victim may not wish to pursue a prosecution including:

- Lengthy timeframes associated with the investigation and prosecution of the case.
- Feeling uninformed about, and uninvolved in, the decision making or prosecution process.
- Not initially realizing the toll that a criminal investigation and trial can take on them mentally, emotionally and physically.
- Pressure from family, friends and the community to not participate in prosecuting the defendant.

The prosecutor should attempt to understand the reasoning behind a victim’s desire to not pursue a prosecution. In some instances, addressing the victim’s concerns may allow a prosecution to proceed forward. However, when victims are unable to, or choose not to, participate in a prosecution, they should be treated with the same dignity and respect as victims who are able to fully participate in the prosecution of their case. In such circumstances, consider asking the victim to sign a release from prosecution so they understand that the prosecutor may be able to bring the charge back if the statute of limitations allows.

Collaboration with Law Enforcement

Prosecutors should review the investigative file early in the process to identify incomplete information or gaps in the evidence. Working closely with law enforcement ensures the collection of important evidence. The sooner this process begins, the more likely that evidence will be preserved and/or obtained.

Decisions Not To Charge

A victim-centered response to sexual assault takes into account the potentially lifelong impact that charging decisions have on victims. Victims of sexual assaults whose cases are not charged may feel re-traumatized because the pathway to achieve closure through the justice system has been closed to them.

It is the responsibility of the prosecutor's office to notify a victim of sexual assault that a decision has been made not to charge the case. The notification should occur promptly and, if possible, before anyone else outside of the criminal justice system is notified. This will prevent the victim from hearing the disposition from the alleged perpetrator or other people first. Best practice is to make notification in person or by phone whenever possible. In addition, as a courtesy to the investigating agency, the agency should be consulted and informed of the prosecutor's decision prior to disclosure to the victim. Notification of the victim should include an honest explanation of the reasons for the decision not to charge.

Preparing the Victim and Family in Charged Cases

The victim-centered approach recognizes that the victim is the center of the investigation. The victim is the person most affected by the crime and in the majority of sexual assaults, the only witness to the assault. Providing information, education and respect to victims and their families promotes cooperation and helps to build the strongest case possible. When a decision is made to charge the offender, prosecutors must prepare victims and family members for the next steps in the justice process. Prosecutors can do this by:

- Educating victims about the steps in the process of the investigation and prosecution.
- Educating victims about attendance at court proceedings.
- Educating victims on the estimated timeline of the case.
- Preparing victims for testimony and estimating the amount of time they will be spending on the stand while acknowledging and understand the impact the victim's trauma will have in this process.
- Preparing victims and family members for disclosure of traumatic information in the trial (e.g., 911 tapes, photos, etc.).
- Informing victims about media coverage, including the possibility of the presence of media in the courtroom.
- Cautioning victims about potential consequences of discussing the case with others outside the criminal justice system.
- Preparing victims, family members or other loved ones on how to respond to inquiries from defense attorneys, investigators and the media.

Protecting Victim Safety

Ensuring the physical and emotional safety of victims during the prosecution phase is critical. In some cases, victims may be subject to intense pressure and harassment from others. To promote victim safety, prosecutors should:

- Advocate for bail conditions that consider the safety of the victim and the community.
- Ensure that criminal no contact orders are written rather than oral.
- Inform victims about the terms of bail conditions for the offender.
- Assist victims to develop a safety plan in the event of retaliation or harassment, this may involve referring the victim to a community or campus-based sexual assault programs who have experience safety planning in cases of gender-based violence.
- Be mindful of the need to separate victims and defendants during any proceedings at the courthouse.

Initial Court Appearances or Pre-Trial Hearings

A victim's attendance at court may be a difficult experience. In some cases, it may be the first time the victim and defendant meet face to face after the assault. Undoubtedly, it will be an affirmation that the defendant is being held accountable for their actions.

Because of this, it is not uncommon for defendants to attempt to intimidate the victim. A victim-centered response recognizes that court appearances are a critical emotional juncture for the victim.

When working with victims, the prosecutor and/or victim witness coordinator should:

- Discuss the advantages and disadvantages of victim attendance at court proceedings.
- Consider whether efforts should be made to quash a subpoena should the defendant subpoena a victim to testify at an initial court appearance or pre-trial hearing.
- Plan where the victim will be waiting prior to and during all court proceedings to limit the victim's exposure to the defendant, their family or their supporters.
- Attempt to ensure the victim and the defendant do not enter the courtroom at the same time.

Plea Negotiations

A victim's input should always be sought before plea discussions. Explain the rationale for offering a negotiated plea and ask victims for their feedback. Minimally, the prosecutor should:

- Never present a plea without first attempting to contact the victim.
- Educate the victim about the process of plea negotiations and sentencing options.
- Make sure the victim is informed of the disposition being offered to the defendant.

Trial Preparation

A victim-centered approach recognizes the need to fully prepare victims for the realities of the trial process. Involving victims in preparing the prosecution's case will empower them and improve their testimony. To prepare victims for trial, the prosecutor or victim witness coordinator should:

- Provide a courtroom tour.
- Prepare the victim for all testimony and anticipated cross examination.
- Caution the victim about speaking about the case with others in a public place such as a courthouse restroom or any other place where potential jury members or others may be present before, during and after the trial.
- Advise the victim who is allowed to be present in the courtroom.
- Discuss with the victim the benefits and challenges of attending certain phases of the trial.
- Prepare the victim for the various possible outcomes of the trial.
- In addition to victim preparation, additional witnesses in the case, including medical personnel, should be fully prepared prior to depositions and/or trial testimony.

Jury Selection

Jury selection, as in any other criminal case, is critical to the outcome of a sexual assault trial. Potential jurors bring with them their own personal experiences and beliefs. Jurors are also exposed to dramatized and/or wholly fictional accounts of sexual assaults in various media which often bear no

relationship to reality. The questions asked of potential jurors during the selection process can expose myths and prejudices that they may hold about sexual assault.

Sentencing

Sentencing hearings can be an empowering and/or traumatic experience for victims and their family members. To prepare victims for the sentencing hearing, the prosecutor's office should:

- Notify the victim that in the event the court orders a pre-sentence investigation, someone from the system may request to speak to the victim directly or through the victim witness coordinator to form an opinion as to the impact of the crime and what the victim feels is an appropriate sentence.
- Review with the victim the possibility that the reading of the charges and sentencing arguments made by prosecution and defense may be potentially upsetting. Victims should be informed that the defendant may speak at the hearing and may address their statements directly at the victim. Victims should be aware it is entirely up to them if they want to acknowledge the defendant's comments.
- Inform the victim of their right to speak at sentencing. Victims who do not wish to speak at the hearing should be offered the option of providing a written Impact Statement directly to the court with copies provided to the defense and prosecution ahead of the hearing.
- A sentencing hearing can be an emotionally charged event. Giving an oral Victim Impact Statement can be overwhelming. Assisting the victim in preparing the statement beforehand can be very helpful in assuring that a victim does not miss saying something they felt was important. It also prepares the advocate or support person for reading the statement in the event the victim is unable to do so.
- If the court permits, victims should be offered the option of sitting or standing when giving their statement.
- Advise the victim that family members and friends may be present to support them.
- Request that a "no contact order" is included in sentencing, if desired by the victim. Victims should be reminded that restraining orders should not be dropped in reliance on the criminal case "no contact" order.
- Encourage the victim to be clear in their Victim Impact Statement whether they are in support of the sentencing proposal.

Idaho Sexual Assault Kit Tracking (IKTS)

The Idaho Sexual Assault Kit Tracking System (IKTS) is the web based program used to track all Sexual Assault Evidence Collection Kits (SAECK) in Idaho. <https://isp.idaho.gov/SexualAssaultKitTracking/>

Idaho State Police Forensic Services (ISPFS) provides Sexual Assault Evidence Collection Kits for the collection of sexual assault evidence from victims of sexual assault. Every SAECK in Idaho shall be labeled with a serial number and be entered in IKTS. The tracking will begin with receipt of the kit by ISPFS from the manufacturer and will track the kit through destruction. All kits in possession of law enforcement lacking a serial number must have a serial number assigned by ISPFS for entry into IKTS.

Victims of sexual assault can see the timeline/current status of their kit by utilizing the website listed above and entering their kit serial number.

Delivery of SAECK to medical Facility

- Kit Received by ISPFS from manufacturer, created in IKTS by ISPFS
- Medical Facility or other agency requests kit(s) from ISPFS
 - ISPFS physically sends kit(s) to requestor
 - ISPFS marks each kit as sent in IKTS
 - Medical Facility or agency receives kit(s)
 - Medical Facility or agency marks each kit as received in IKTS

Medical Facility

- Returning unused kit(s) to ISPFS
 - Physically return kit(s) to ISPFS
 - Mark each kit as sent to ISPFS in IKTS
- Kit utilized for purpose other than collecting evidence from a victim of sexual assault
 - Mark kit as repurposed in IKTS
- Kit used to collect evidence from a victim of sexual assault
 - Provide Victim Notification Form to victim
 - Complete Medical Data fields in IKTS
 - Turn over custody of kit to appropriate law enforcement agency
 - Mark as sent in IKTS

Law Enforcement Agency

- Receive kit from medical facility or other law enforcement agency
- Mark as received in IKTS
- If transferring custody to another law enforcement agency
 - Turn over custody to that agency
 - Mark as sent in IKTS
- Complete Law Enforcement Data fields in IKTS including planned destruction date
- Determine if per IC § 67-2919 the kit must be submitted to the laboratory
- If the kit should NOT be submitted to the laboratory
 - Mark Meets Submission Requirements as No and select Non-Submission Reason from drop down
- If kit should be submitted

- Mark Meets Submission Requirements as Yes
- Physically send the kit to ISPFS
- Mark kit as sent in IKTS
- Once laboratory testing complete and kit/all kit components received back from the laboratory mark kit as received in IKTS
- Maintain custody of kit until destruction per IC § 67-2919
 - Enter planned destruction date in IKTS

Laboratory

- Receive kit from law enforcement agency
- Mark kit as received in IKTS and enter laboratory case number
- At the completion of all laboratory analyses complete lab data fields in IKTS
 - In the event of a DNA database match enter information in IKTS
- Physically return the kit/all kit components to the law enforcement agency
- Mark kit as sent in IKTS

Prosecutor

- Review kits marked as not meeting submission requirements by law enforcement agency
- Complete Prosecuting Attorney Review fields in IKTS

Victim

- Enter kit number in serial number field on IKTS website to view kit timeline and current status
- Contact law enforcement agency handling the investigation if any questions on the current status of the kit

Appendix A: Victim Notification Form

This form is contained within the sexual assault kit and should be given to the victim.



Forensic Services Victim Notification Form

SEXUAL ASSAULT EVIDENCE KIT TRACKING # _____

Notification of victim's rights pursuant to Idaho Code Chapter 29, Title 67, Section 67-2919 regarding sexual assault evidence kit* testing and notification:

Sexual assault evidence kit testing

As an adult victim you have the right to decline collection of a sexual assault evidence kit or to request no further forensic examination or testing occur on a collected sexual assault evidence kit. You must expressly indicate your request for no further testing; otherwise, the sexual assault evidence kit will be submitted by law enforcement to the Idaho State Police Forensic Services laboratory for testing (except as provided in Idaho Code Chapter 29, Title 67, Section 67-2919, Subsection 6). **To expressly indicate your request for no further testing, please sign and complete the attached waiver and provide it to the law enforcement agency in possession of the sexual assault evidence kit.**

Victim Notification

As an adult victim (or parent/legal guardian of a minor victim) you have the right to receive notification of the following events upon written request to the law enforcement agency that submitted the sexual assault evidence kit for testing:

- When the sexual assault evidence kit is submitted to the Idaho State Police Forensic Services laboratory
- When any evidence sample DNA profile is entered into the Idaho DNA database
- When a DNA match occurs
- When there is any change in the status or reopening of the case
- When there is any planned destruction of the sexual assault evidence kit or any other sexual assault case evidence

A website has been developed to assist in tracking the status of sexual assault evidence kits in the state of Idaho. To view the current status of the sexual assault evidence kit please visit the following website and enter the sexual assault evidence kit tracking # listed at the top of this page:

<https://isp.idaho.gov/SexualAssaultKitTracking>

**"Sexual assault evidence kit" means a set of materials, such as swabs and tools for collecting blood samples, used to gather forensic evidence from a victim of reported sexual assault and the evidence obtained with such materials.*

Appendix B: Patient Option Information for Nursing and Patient Option Card

Nursing Information

Patient Options for Sexual Assault Treatment and Evidence Collection

Law enforcement should *not* automatically be contacted in all cases of sexual assault. Medical providers of adult sexual assault patients (age 18 years and older) should discuss with the adult patient the following options and pros and cons of each before contacting law enforcement:

- **Option 1**

Medical treatment and evidence collection with law enforcement notification.

a) The patient chooses to report the sexual assault to law enforcement. Law enforcement takes a statement of the assault from the patient. The patient receives medical treatment, and completes a forensic medical exam with evidence collection. Once the sexual assault evidence kit is collected, it then gets turned over to law enforcement. Law enforcement will then forward the SAEK to the state crime lab for biological testing. (Some exceptions apply). The kit collection and medical treatment associated with sexual assault is covered by Crime Victims Compensation fund. (Exceptions apply)

- **Option 2**

Medical treatment, anonymous evidence collection, and no law enforcement notification.

a) The patient chooses not to report the sexual assault to law enforcement. (Patient must be 18 years or older. Patients younger than 18 years are a mandatory report to law enforcement). The patient receives medical treatment and completes a forensic medical exam with evidence collection. The sexual assault evidence kit is labeled as Jane/John Doe and no patient information is given to law enforcement when the kit is handed off. The Jane/John Doe kit stays in the custody of the law enforcement agency for 55 years and is not sent to the state crime lab for testing unless the patient decides to report the sexual assault to law enforcement at a future date. At no time does the patient have to report the assault to law enforcement in order to receive medical treatment, a medical forensic exam, and have an evidence kit collected anonymously. The patient may choose to report the assault at a future date and have the sexual assault kit submitted for testing.

- **Option 3**

Medical treatment only. No law enforcement notification and no evidence collection.

a) The patient may receive medical treatment and a medical exam without having a sexual assault evidence kit collected. Treatment can include but is not limited to; a physical exam, documentation of assault and any injuries sustained from the assault, prophylactic medication for sexually transmitted infections, and emergency contraception. At no time does the patient have to report the assault to law enforcement to receive medical treatment or to have a medical forensic exam without evidence collection.

- **Option 4**

Patient chooses to do nothing and chooses to go home.

This information should be provided without judgment and in a language the patient understands. The patient has the right to choose any of these options, unless they are younger than 18 years of age or if other mandatory reporting requirements apply.

Law enforcement should only be contacted with the patients' permission after they have been fully informed of all treatment, evidence collection, and law enforcement notification options.

For those sexual assault patients younger than 18 years of age, you must report to law enforcement. Minors *cannot* have a sexual assault kit collected anonymously.

Patient Quick Reference Card for Sexual Assault Care

You are experiencing a traumatic event and we value your right to choose how to proceed. We value your privacy and no one outside the hospital will be notified unless you expressly give us consent to notify an outside agency regarding the sexual assault.

Your options for treatment are listed below. Read thru the options, ask questions, and together with your nurse, you can make an informed decision on how to proceed.

- **Report to law enforcement/Sexual Assault Evidence Kit (SAEK) is collected**
 - 1) You choose to report to law enforcement. You provide a statement to LE.
 - 2) You are provided a medical forensic exam *with* evidence collection.
 - 3) Law enforcement takes custody of SAEK.
 - 4) SAEK is sent to the state crime lab for biological testing. (Some exceptions apply)

- **No report to law enforcement/Sexual Assault Evidence Kit (SAEK) is collected as a Jane/John Doe**
 - 1) You choose not to report to law enforcement. LE is *not* contacted.
 - 2) You are provided a medical forensic exam *with* evidence collection.
 - 3) SAEK has **NO** patient information on or in the kit. Kit is labeled as Jane/John Doe. (Your information will NOT be given to Law Enforcement without your consent)
 - 4) Appropriate law enforcement agency is contacted to take kit into evidence.
 - 5) SAEK is held by law enforcement for 55 years and will not be sent to the state crime lab for biological testing.
 - 6) If and/or when you choose to report the assault to law enforcement, the kit will then be labeled with your information and sent to the state crime lab for biological testing. (Some exceptions apply)

- **No report to law enforcement/No Sexual Assault Evidence Kit collected**
 - 1) You choose not to report the sexual assault to law enforcement. (Your information will NOT be given to law enforcement without your consent.)
 - 2) You are provided a medical exam *without* evidence collection.
 - 3) You may choose at a future date to report the sexual assault to law enforcement.

- **You choose none of these options.**
 - 1) You may also choose to go home and not proceed with any of the options.

Regardless of the option you choose, we will honor your choices and provide care in a trauma-informed, patient centered environment.

Appendix C: Example Medical Exam Checklist

Sexual Assault Forensic Exam Summary		
Patient Name:	Arrival Date & Time:	
Forensic Examiner:	Initials:	Arrival Date & Time:
Requesting Agency:		
Detective's Name:		
Victim Witness Coordinator:		
Other Advocate:		
Medical Clearance:		
Exam Process:		
<input type="checkbox"/> Consents for exam/treatment signed		
<input type="checkbox"/> Urine for pregnancy test	<input type="checkbox"/> Bedside	<input type="checkbox"/> Lab
<input type="checkbox"/> Urine for Toxicology in State of Idaho Biological Specimens' Kit per Police request		
<input type="checkbox"/> Blood for Alcohol in State of Idaho Biological Specimens' Kit		
<input type="checkbox"/> History completed		
<input type="checkbox"/> Kit , Obtain new sealed kit	<input type="checkbox"/> Seal intact	<input type="checkbox"/> Expiration Date:
<input type="checkbox"/> Clothing Removal:		
<input type="checkbox"/> Each item in a separate bag, bag sealed with tape		
<input type="checkbox"/> Bag labeled with item of clothing, patient name, date, examiner's initials		
<input type="checkbox"/> Clothing bagged:		
<input type="checkbox"/> Patient Gowned		
<input type="checkbox"/> Woods lamp inspection head to toe		
<input type="checkbox"/> Positive Florescence Where:		
<input type="checkbox"/> Swabs of positive florescence taken		
<input type="checkbox"/> Debris Collection from paper patient undressed on:		
<input type="checkbox"/> Foreign matter (ie; blood, grass, fiber) seen:		
<input type="checkbox"/> Paper folded and placed in brown paper bag, sealed, and labeled		
<input type="checkbox"/> No Debris found		
<input type="checkbox"/> Head to toe physical assessment		
<input type="checkbox"/> Swabbed bite marks		
<input type="checkbox"/> Swabbed suck marks		
<input type="checkbox"/> Other Swabs:		
<input type="checkbox"/> Photo documentation of injuries		
<input type="checkbox"/> Written documentation of injuries		
<input type="checkbox"/> Blood Sample:	<input type="checkbox"/> For Sexual Assault Kit	<input type="checkbox"/> For additional lab test see physician orders
<input type="checkbox"/> Fingernail cuttings and swabs obtained		
<input type="checkbox"/> Head Hair obtained (optional)		
<input type="checkbox"/> Oral Swabs: 4 swabs obtained		

Exam Process (continued):
<input type="checkbox"/> Miscellaneous swabs:
Location:
<input type="checkbox"/> Pubic hair combings
<input type="checkbox"/> Pubic hair sample obtained (optional)
<input type="checkbox"/> Perineal Swabs: Number of swabs: _____ collected
<input type="checkbox"/> Photo documentation of genital injuries
<input type="checkbox"/> Colposcope
<input type="checkbox"/> Digital Camera
<input type="checkbox"/> "Polaroid" Camera
<input type="checkbox"/> Toluidine procedure completed, and additional documentation.
<input type="checkbox"/> Vaginal exam & swabs: 4 swabs collected
<input type="checkbox"/> Vaginal Speculum exam
<input type="checkbox"/> Penile exam & swabs: 4 swabs collected
<input type="checkbox"/> Anal exam & swabs: 4 swabs collected
<input type="checkbox"/> Anoscope exam
<input type="checkbox"/> Swab evidence collection
<input type="checkbox"/> Swabs were dried for a minimum of 60 minutes.
<input type="checkbox"/> Completed Patient Information and Sexual Assault History Form included in kit
<input type="checkbox"/> Kit Sealed – with all specimens, closed kit, and affixed seals to secure box
<input type="checkbox"/> Chain of Custody ; was maintained with all evidence in the possession of the examiner until:
<input type="checkbox"/> Signed over to:
<input type="checkbox"/> Complete information and "Chain of Evidence" on top of kit and signed over to Officer
<input type="checkbox"/> Medications given:
<input type="checkbox"/> Offer HIV/STD/other counseling referrals
<input type="checkbox"/> Give patient feedback form with discharge instructions
<input type="checkbox"/> Dryer and/or colposcope cleaned after procedure
<input type="checkbox"/> ED Physician Evaluation : <input type="checkbox"/> Name of Provider:
<input type="checkbox"/> Additional medical diagnostic test done.
<input type="checkbox"/> Labs
<input type="checkbox"/> X-rays

Impressions:

Victim Notification form given to patient

Patient released to:

Disposition: Home Transfer to ED at:

Admitted:

Condition: Good Satisfactory Guarded

Copy of Sexual Assault Forensic Exam Summary to Law Enforcement.

Printed Name:

Signature:

White: Medical Records

Yellow: Law Enforcement Agency

Pink: ER Dept. Director