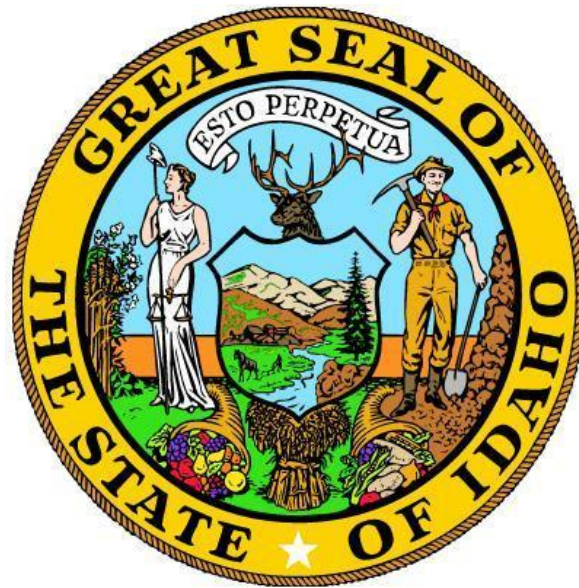


Idaho Sexual Assault Response Guidelines



November 2021
Revision 3

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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: An individual between 12 and 18 years of age who has usually exhibited signs of physical and sexual maturation.

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, e 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 (or previous 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 is 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.

Patient: Any victim of a sexual assault that presents to a healthcare provider, especially a SANE, for medical care after a sexual assault.

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.

DEFINITIONS

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

Sexual Assault Nurse Examiner (SANE): A registered nurse who has been specially trained to provide comprehensive examination and care to sexual assault victims, including collection of forensic evidence.

Sexual Assault Response Team (SART): A multidisciplinary team formed to address the response to sexual assault in their community. Core members are the first responders to sexual assault and include law enforcement, healthcare professional (such as a SANE), victim advocates, and prosecutor. Other community representatives may include Adult Protection Services, Child Protection Services (depending on age of victims served), state crime lab, college or university personnel, criminal justice representative, and others as the team determines is appropriate.

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. Advocates maintain the confidentiality of the patient as allowed by law.

Law Enforcement based Victim Witness Coordinators: Victim Advocate housed with a law enforcement agency; confidentiality is limited as the Advocate is obligated to report knowledge of the crime to the law enforcement agency with which they are associated. Advocates respond at the time of incident and continue working with the victim through the investigative process, court proceedings, sentencing hearing and parole hearing. Advocates provide court accompaniment, as well as being present for any meeting with detectives and prosecutors. Other services include victim compensation resources, crisis response, safety planning, and information about "no contact orders" and "protection orders." Advocates ensure consideration of the victim's voice during the investigative and court process, and that the victims 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

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

RESOURCES

- [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

RESOURCES

- [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

RESOURCES

- [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
- [Tamara Jell](#)
[FBI Victim Specialist](#)
Salt Lake Division – Coeur d’Alene and Lewiston RAs
206-518-3254

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

RESOURCES

- [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

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

BEST PRACTICES FOR DISCIPLINES

VICTIM NEEDS & RIGHTS

In the United States, nearly 1 in 5 women and 1 in 38 men have been victims of rape or attempted rape in their lifetime¹. Despite the high prevalence of sexual violence, only a small percentage of incidents are reported to law enforcement or medical personnel. According to recent estimates, 66.1% of rapes and sexual assaults are not reported to the police². Common 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, and belief that it is a personal matter³. In addition, 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 enforcement⁴.

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 life⁵. Similarly, a **victim-centered approach** involves prioritizing victim safety and well-being by actively seeking to minimize re-traumatization, providing support, and empowering victims⁶.

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^{7,8} and ensure justice by improving case outcomes for law enforcement⁹. 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, the main goals of victim-centered, trauma-informed care are to help survivors rebuild a sense of safety and empowerment, as well as to prevent re-traumatization. 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 LOCAL RESOURCES

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 Options Information).

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 four 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).

OPTION 1: 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 Sexual Assault Evidence Collection Kit (SAECK) 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 that can have immediate and long-lasting effects on behavior and cognition. Thus, additional options are available.

OPTION 2: 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 and turned over to law enforcement. The victim’s identifying information is kept inside the sealed SAECK in the event they later decide to have it tested, but the outside of the SAECK is labeled Jane or John Doe. 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.

OPTION 3: 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.

OPTION 4: DECLINATION OF CARE

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

VICTIM NEEDS & RIGHTS

- 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 tribal-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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MEDICAL FORENSIC EXAMINATIONS

ACCESS TO CARE:

- We recognize that Idaho comprises a range of rural and urban communities with variable degrees of health care resource. 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.
- The patient must be medically cleared before a medical forensic examination begins. After the patient is determined to be medically stable, the medical forensic exam may proceed to address healthcare issues and collect evidence, if the patient so desires.

PATIENT-CENTERED, TRAUMA-INFORMED APPROACH TO CARE:

- The patient who has experienced a sexual assault has been traumatized; all control of their self and body has been stripped from them, and they have experienced intense fear, and even terror. These emotions have likely triggered the physiological stress response, activating a hormonal cascade that actually changes the way the brain functions during the assault and for several hours/days after the assault. As those who care for these patients, we must be cognizant of how the stress response alters a person’s emotional presentation and responses.
- When the brain recognizes a threat the logical center, (the frontal cortex), usually in control, is shut down and the amygdala, (which controls emotional processing), signals the hypothalamus to initiate the stress response, flooding the body with hormones needed to act to protect the body from danger. This response focuses on Fight or Flight, but a third component, much more likely in sexual assault, is the Freeze response. The freeze response is initiated when the brain, completely automatically and not under conscious control, decides that neither fighting nor fleeing will best protect the body.
- Simplistically, hormones released, and their effects, include:
 - Catecholamines – natural adrenaline that triggers the fight, flight, or freeze response.
 - Corticosteroids – controls energy levels: high, if needed to fight or flee, but it will also decrease energy if the brain determines that freezing is a safer response.
 - Endogenous opioids – a natural morphine to decrease physical pain and may create a flat affect, or “out of it” demeanor.
 - Endogenous oxytocin – a “feel good” hormone that assists in blocking pain, but also may produce emotions seen as inappropriate to the situation
 - The Freeze response may progress (often seen with restraint) to Tonic Immobility (a true muscular paralysis during which the brain remains fully aware of what is happening) or Collapsed Immobility (in which the patient loses consciousness while paralyzed). This

response explains why the patient “just laid there” or didn’t call for help, even if help was nearby.

- The hormones involved in the stress response alter the way memories are captured and encoded; memories are no longer captured logically, but as sensory inputs (improving memory of what is seen, heard, touched, tasted, or smelled). Encoding of memories is delayed; the encoding will occur after one to two sleep cycles have occurred.
- The hormonal effects of the stress response are responsible for the unexpected presentation we see; demeanor that is very calm, or very angry; poor eye contact, difficulty remembering what happened, and unable to recall memory in a linear or logical sense. High oxytocin levels contribute to poor or impaired decision-making – perhaps the patient calls the assailant and makes plan to meet up shortly after the assault, leaving those around to wonder how on earth the report of assault could be true.
- When we see these ‘unexpected’ responses, we need to recognize that the patient has been severely traumatized
 - “In the midst of assault, the brain’s fear circuitry takes over while other key parts are impaired or even effectively shut down. This is the brain reacting to a life-threatening situation just the way it is supposed to” (Hopper and Lisak, 2014).
- The goal of intervention with the patient is to prevent re-traumatization; we do this by shifting our thoughts/approach from “what is wrong with you” to “what happened to you”. Being patient-centered means returning control to the patient and using trauma-informed techniques, including:
 - Safety – creating an environment of both physical and emotional safety, where the provider’s integrity, sincerity, non-judgmental demeanor and honesty will foster the ability for the patient to feel safer in talking openly with us.
 - Empowerment – telling the patient they are believed is vital, demonstrating sincerity (“I am sorry this happened to you”), careful listening to understand, and demonstrating an accepting body language sends the message that they are believed and can be open with the provider.
 - Choice – giving the patient total control for all that happens while they are with us, restoring the ability to make choices for their own care is the beginning of recovery. Giving enough information for the patient to make informed choices, and respecting those choices (even if we feel the choice isn’t the best one) restores the patient’s sense of self-control, which is vital to begin the healing process.
 - Collaboration – collaborating with other providers, such as Advocate or Law Enforcement, to ensure the patient’s need are met after a provider’s time with them is over reinforces the patient’s feeling that others care about them and that their needs are important and respected.
 - Trustworthiness – being honest about what the provider can and cannot do fosters the belief that what is being said can be trusted; even if the provider cannot give what the patient is looking for (“I know it’s frightening to wake up and not remember what may have happened; you need to understand the examination may not provide those answers for you”).
 - While sexual assault is a terrifying event that carries fear, anxiety, and depression that may advance to PTSD and suicidal ideation, there can be healing and recovery with a positive and joyful life afterward, if the patient is not re-traumatized by unbelief and receives care in a patient-centered, trauma-informed manner while providing referrals for on-going care after the immediate healthcare examination is complete.

WHERE MEDICAL FORENSIC EXAMINATIONS MAY BE DONE:

- Sexual assault medical forensic examinations will be performed at the hospital or designated site/area local jurisdictions have established, and according to the medical stability of the patient.
- The patient must be medically cleared by an approved provider prior to the medical forensic examination.
- Any emergent medical condition will be assessed and treated as needed before the medical forensic examination is done.
- Best practice for medical forensic examinations is to have the exams performed by a medical provider trained in sexual assault evaluation. This may include a Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), or Pediatric SAFE.
- Should the patient's medical status change during the medical forensic examination, the SAFE or designated staff will stop exam and obtain appropriate medical care.
- If the exam is being conducted in a clinic-like setting, this may require transport to an emergency room.

MANDATED REPORTING:

- All healthcare providers are mandated reporters for children, elders, and other vulnerable populations. All suspected crime or exploitation must be reported, *with the exception of an adult patient who chooses not to report a sexual assault.*
- Report to Child Protective Services for patients less than 18 years of age following the mandated reporting laws of Idaho, and according to organizational policy. *Any suspected child abuse/assault must be reported immediately.*
- 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).
- Adult Protective Services can be reached at:
 - Area 1 – North:(Boundary, Bonner, Kootenai, Benewah, and Shoshone counties) 208-667-3179 or 1-800-786-5536
 - Area 2 – North Central (Latah, Clearwater, Nez Perce, Lewis, and Idaho counties) 208-743-5580 or 1-800-877-3206
 - Area 3 – Southwest (Adams, Valley, Washington, Payette, Gem, Canyon, Ada, Owyhee, Elmore, and Boise counties): 208-898-7060 or 1-800-850-2883
 - Area 4 – South Central (Camas, Blaine, Gooding, Lincoln, Minidoka, Jerome, Twin Falls, and Cassia counties) 208-736-2122 or 1-800-574-8656
 - Area 5 – Southeast (Bingham, Power, Oneida, Bannock, Caribou, Franklin, and Bear Lake counties) 208-233-4032 or 1-800-526-8129
 - Area 6 – East (Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Bonneville, and Teton counties) 208-522-5391 or 1-800-623-4813
- Mandatory reporting is dependent on individual hospital policy and procedures that meet Idaho statute.

PATIENT CONSENT AND DECISION TO COLLECT EVIDENCE:

- Consent to treat must be obtained prior to any exam. Components of consent should include:

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- Consent to a medical examination, including collection of blood and/or urine for toxicology or diagnostic testing, speculum/anoscopic exam
- Consent for forensic examination, including evidence collection and forensic photography
 - Whether photographs are part of the medical record, per local jurisdiction protocol
- Other agencies that photographs may be released to.
- That photographs will be used to educate SANE nurses, through chart review.
- How photographs are released to law enforcement and/or prosecutors.
 - What data may be collected during the exam and how it is used.
- Medical treatment is not based on refusal to sign portions of consent.
- How/when medical records are released to law enforcement.
 - Some programs give a copy of the medical record and/or photographs to law enforcement at time of the exam; other programs treat the record as all non-assault records are treated.
- Consent is fluid; once given it may be revoked, in whole or in part, at any time with no repercussions for the patient.

ANONYMOUS KITS:

- A Jane Doe/anonymous exam option is available to those victims 18 years of age or older.
- No patient identification information is given to LE; Sexual Assault Evidence Collection Kits will have the patient's name on the evidence envelopes inside the kit, but the front of the kit will be labeled as "Jane Doe."
- Anonymous kits will be turned over to the law enforcement agency of jurisdiction for storage until the patient decides to report, or as mandated by per IC § 67-2919(if the patient does not report).
- Special consideration needs to be taken to protect the identity of the patient, since once law enforcement knows the patient's name, regardless of how that information became available, the patient may not remain anonymous. For this reason, systems-based advocates cannot be utilized for these patients.

LAW ENFORCEMENT NOTIFICATION (ADULTS):

- Activate Law Enforcement (LE) in the jurisdiction where the assault was reported to have occurred, if the adult patient so desires. If the adult patient does not wish to report to Law Enforcement, medical personnel will contact a community-based Victim Advocate.
- When appropriate, information will be released to Law Enforcement according to the medical facility's policies and procedures which reflect HIPAA and state statutes.

ADVOCACY:

- While the patient's choices are always to be respected, it is recommended you NOT ask them if they want an Advocate; they will almost always decline.
- Explain you have called an Advocate in to explain the many services that can be provided, including assistance in filling out the Crime Victim's Compensation application to ensure they do not have any out-of-pocket expenses for the exam.
- Assure the patient that, if after they have spoken with the Advocate they do not wish to engage with them, their wishes will be respected.
- Give written Advocate contact information at discharge, even if the patient initially chooses not to have contact, as they may change their mind at a later date and need contact information.

TIMEFRAMES FOR EVIDENCE COLLECTION:

- Current best practice guidelines suggests forensic evidence collection up to 120 hours after assault of adolescents and adults and up to 72 hours for children under age 14. At provider discretion, evidence may be collected past those time frames.
- Blood may be obtained for toxicology up to 24 hours after suspected ingestion; always send a urine sample for toxicology if blood is sent. Toxicology samples must be sent to, and analyzed by, the State Crime Lab, as hospitals do not have the ability to test for the array of substances that the Crime Lab can test for. Collect the evidence samples prior to any blood collection that may be done for medical need.
- Urine samples may be collected up to 120 hours after suspected ingestion of a drug; collect this sample prior to collecting a medical sample. Collect as a dirty sample (no genital cleansing before collection) and ask the patient to ‘air dry’ without wiping after collection to prevent the possible loss of DNA.

MEDICAL FORENSIC EXAMINATION GENERAL CONSIDERATIONS:

- Evidence preservation will be considered when performing medical evaluations and procedures, but it is secondary to medical treatment and care.
- Physical exam should be thoroughly documented, including review of systems, medical and incident history, medication and allergy review, as well as the physical exam specific to forensics. Include a description of the size, location, and appearance of any injuries, or lack of findings, utilizing body diagrams and narrative description.
- Every patient should be evaluated for possible strangulation, using language the patient may best relate to (instead of asking if they were strangled, ask “at any time did you have trouble breathing”). If any indication of strangulation is present a thorough examination for possible injury, including medical imaging as indicated, will be completed prior to the forensic examination being done.
- Provider considerations:
- Screening for male DNA is extremely sensitive and male providers need to take special care not to contaminate items collected in the kit with their own DNA.
- Cover all facial hair closely.
- Wear long-sleeved lab coat or other covering.
- Wear mask and gloves.
- Avoid excess talking during collection.
- Dry swabs in covered swab dryer.
- Females need to follow similar precautions as excessive female DNA (which is not differentiated from the female patient’s DNA) may overwhelm male DNA, making it undetectable
- If both a patient (victim) and suspect are to be examined, it is highly preferable for different SANEs to perform the exams. If this is not possible, the SANE may want to shower and change clothes between exams.
- A different room must be used for each exam to prevent possible DNA transfer.
- Room considerations:
- A room that is away from busy areas (such as an ER), is large enough to comfortably accommodate the patient, a support person (if desired), an Advocate, and the SANE examiner is needed.
- A room that is warm and inviting will promote patient relaxation.
- The room should be thoroughly cleaned with bleach between patients to prevent DNA transfer.

HISTORY:

- Document patient’s chief complaint.
- Never document “alleged sexual assault.”
 - “Alleged” is a legal term and is not appropriate in the medical record (and is not used to describe non-assault complaints).
- Assess and document medical and surgical history, allergies, and immunization status.
- Obtain and document vital signs.
- If applicable, Last Menstrual Period (LMP), birth control methods, and recent Sexually Transmitted Infection (STI) history.
- Document any ano-genital surgery or injury in the previous 60 days that might be visible upon examination.
- Document current injuries that occurred prior to the assault.
- Document consensual sexual activity in the previous five days (include specific contact types).
 - It is vital that consensual partners be identified to ensure exclusion from the CODIS database.
- Any symptoms suggestive of drug or alcohol-facilitated assault (because half-life of drugs used for possible drug-facilitated assault are so short, collect toxicology samples immediately AFTER obtaining consent)
- Memory loss
- Lapse of consciousness (evaluate carefully, as patient is not always aware that actual LOC occurred)
- Unusual intoxication for amount of voluntary substance ingestion
- Extreme fatigue or sleepiness
- Vomiting
- Patient history of what occurred to include but not limited to:
 - Type of contact:
 - Oral/digital/genital contact to areas of the patient’s body (specify)
 - Vaginal or anal penetration
 - Non-genital contact (kissing, licking, sucking, biting) – identification of areas may be enhanced with the use of an alternate light source
 - Foreign objects that may have been used
 - Ejaculation and where ejaculate contacted the patient’s body
 - Be aware that it is common for the patient not to know if ejaculation occurred
 - Use of condom
 - Use of lubricant (including saliva)
 - Date/time of assault
 - To determine timing of medications
 - Location of assault (not address, “my bedroom”, “in the car”)
 - To assist in determining what in the environment may have caused injury and where the injury could be located on the patient’s body
 - Name(s) of assailant(s)
 - To assist in safety planning
 - Any threats or weapons used
 - Assist in determining level of emotional trauma

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- Assist in evaluation of injury
- Any physical violence – clearly document type and location
 - Identify possible areas of injury
 - Identify areas of evidence collection for manual contact
 - The possibility that the patient inflicted injury on the assailant(s)
- Manual contact – swab for evidence
- Scratching (swab hands and under fingernails), slap or punch (swab hands), etc.
- Activity after assault, i.e., whether the patient voided, brushed teeth, wiped/washed external genitalia
 - These activities do NOT preclude the collection of evidence, but should be documented on the Patient Information and History Form in the SAECK to inform the Forensic Scientists.

CLOTHING COLLECTION:

- Collect clothing worn during assault, if possible; patient must consent to collection.
 - Place sheet on floor to protect bindle sheet.
 - Place bindle sheet on top of the sheet that has been laid on the floor.
 - Place open bags around the bindle sheet (examiner must not put hands/arms inside bags when opening, to prevent possible transfer of examiner’s DNA).
 - Have patient drop each article of clothing into bags.
 - One article of clothing per bag (including stockings/socks)
 - Protect modesty while undressing, hold gown for patient and assist placing gown once shirt/blouse/bra has been removed.
 - After all clothing is collected carefully fold bindle sheet and place in a separate bag.
 - Inform patient clothing will not be returned.
 - If patient does not wish to give up clothing but there are areas of possible body secretions, photograph and swab areas.
 - Use the same process for jewelry that may have the assailant’s body secretions present.
 - Collect underwear worn after assault, even if patient has changed them; secretions may still be present
 - Label bags of clothing with patient name and unique identifier (per organization’s policy; may be patient ID, birthday, or case number, etc.), description of clothing item (“intact black stocking from left foot”, “red t-shirt with 4cm x 7cm dark stain on lower anterior portion of shirt, near hem” etc.), date/time collected, collector’s name, and complete Chain of Custody.
- Provide (new) clothing for patient to wear home.
 - Sending patient home in scrubs is generally not acceptable, unless there is simply no other choice.
 - Organizations performing SANE exams should have new clothing in various sizes for patients.
 - Advocacy agencies may have clothing for patients.

EXAMINATION:

A complete examination after clothing collection (if appropriate) is done in conjunction with forensic photography and evidence collection; beginning at the scalp, carefully examine the entire body for any evidence of injury. When injury is noted take forensic photographs (as noted below), then swab the injury (see “Swabbing”). Examine the body from scalp to waist, then from toes to waist, and complete the examination with the ano-genital inspection. *Under no condition should the forensic examination be the patient’s first speculum examination! If injuries indicate a speculum exam is required for repair, and the patient has not had a speculum exam previously, strongly consider a sedated exam.*

INSPECT FOR INJURY:

- Take photographs of any injuries:
 - Photograph non-injury body areas per your organization’s policy/protocol.
 - Refer to forensic photograph recommendations in next section.
- Swab appropriate injuries (see next section for specific guidelines for collection of evidence swabs).
- Assess back, buttocks, and posterior legs while still standing after clothing collection.
- Assess scalp and head (including oral cavity, ear canals/behind ears and conjunctiva), neck, shoulders, and chest; then, assess feet and legs, finally assessing the ano-genital area.
 - Be aware that the inner thighs may have secretions/ejaculate.
- Swab any areas patient indicates felt wet or sticky, even if nothing is visible.
- Non-estrogenized females should not have a speculum exam done, as touching the hymen will be very painful (pre-pubescent and post-menopausal females).
- Speculum examination of transgendered females must be particularly gentle as the tissue may be more fragile than expected.
- Photograph external genitalia prior to speculum examination (even careful speculum insertion may cause injury).

EVIDENCE COLLECTION:

FORENSIC PHOTOGRAPHY:

- Written consent for all photographs must be obtained.
- Photographs are taken prior to swabbing for evidence.
- Take photographs in sequence (with patient’s consent):
 - Bookend photograph (picture of patient ID – per organizations’ policy).
 - Full length photograph, capturing condition of clothing and patient’s overall demeanor (per organization’s policy).
 - Full face photograph, capturing demeanor (per organization’s policy).
 - Ask patient not to smile; they will often attempt to do so, and you are trying to accurately capture their presenting demeanor
- Photography any rips/tears/stains of clothing
- Photograph injuries:
 - Orientation photograph – capture at least two anatomical landmarks to allow identification (including laterality) of site of injury.

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- Close up of injury (fill camera frame with injury, consider use of macro lens, if appropriate).
- Close up of injury with ABFO ruler (do not cover any portion of injury, but have ruler close enough to injury to allow use of photograph to document measurement of injury).
-
- Ano-genital photographs (per organization's policy):
 - Take orientation photo of entire genital.
 - Use traction and separation to assess each genital structure, photographing each (separate orientation photo and ruler photos are not required for genital structures or injuries).
 - Photograph cervix through speculum
- Finish series with second bookend photograph (same photo as beginning bookend photo).
- Securely store photographs per organizational policy.

FORENSIC EVIDENCE KITS:

Three potential evidence collection kits (instructions included in the kits) provided by ISPFs are available for evidence collection. These include the Sexual Assault Evidence Collection Kit (SAECK), urine kit, and blood kit.

BLOOD TOXICOLOGY KIT (collect if suspected ingestion has occurred less than 24 hours previously):

- Clean site with non-alcohol prep pad (kit contains povidine-iodine pad; if the patient is allergic, use a non-alcohol substitute and document what was used on the Patient Information and History Form).
- Use kit's tubes (do NOT substitute a hospital grey-top tube, as they do not contain the correct preservatives), and fill both tubes fully (10ml apiece).
- Gently rotate tubes to mix blood with preservative.
- Label with patient's name and birth date, as well as collector's name, and date/time collection was done.
- Place both tubes in Bio-Hazard bag (leave absorbent sheet in bag) and zip shut.
- Place Bio-Hazard bag in kit box, close, and seal with evidence tape.
- Sign across tape, adding date/time.
- Always submit a urine sample when a blood sample is collected for toxicology.

URINE TOXICOLOGY KIT (collect if suspected ingestion has occurred less than 120 hours previously):

- Collect first voided urine, if possible.
 - Sample should be a 'dirty' collection, without cleansing of genitals/urinary meatus.
 - Obtain a minimum of 30ml, if possible.
- Place on ice or in fridge/freezer; when given to law enforcement, remind them to keep specimen refrigerated or frozen.
- Patient should not wipe after void.
- If patient must wipe, have patient use sterile 4X4 gauze to wipe and package the gauze in an evidence envelope from the SAECK (do not package the gauze with the urine kit or submit for toxicology testing).

SEXUAL ASSAULT EVIDENCE COLLECTION KIT:

- Verify SAECK expiration date; open the sealed kit immediately prior to use. If the sterile water vial has expired replace it with one from the hospital supply, document that you have done so, and proceed using the kit.
- Make note of kit number in the medical record.
- Once the kit is open the Chain of Custody must be maintained.
- Ensure proper supplies are in the kit, including:

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- Patient Information and History Form
- Victim Notification and Tracking Form
- Kit Instructions
- Blue FDA insert discussing expiration date
- Evidence envelopes:
 - Foreign Matter Collection
 - Pubic Hair Combing
 - Other Swabs (x2)
 - Vaginal Swabs
 - Anal Swabs
 - Oral Swabs
 - External Genitalia Swabs
 - Known Blood Sample (patient reference bloodspot card)
- Water vial – check expiration date
- Two evidence tape labels

COLLECTION OF EVIDENCE:

The medical professional will use the patient's history and report of contact to guide the collection of evidence. Evidence should be collected wherever the assailant's body had contact with the patient. If the patient has limited or no memory of the event, evidence should be collected from the 'usual' sites one expects contact.

- Collection with no memory of event:
 - Oral (mouth)
 - External oral – (possible saliva from kissing, sucking, or biting)
 - Neck - (possible saliva from kissing, sucking, or biting)
 - Breasts - (possible saliva from kissing, sucking, or biting)
 - Inner thighs - (possible saliva from kissing, sucking, or biting and/or semen from possible ejaculation)
 - External genitalia - (possible saliva from kissing, sucking, or biting and/or semen from possible ejaculation)
 - Vagina/cervix (one specimen)
 - Any injury that may have been created by aggressive skin-to-skin contact (apparent finger pad marks on the neck, slap marks anywhere) and any bite marks.
 - Collect any foreign debris seen.
 - Collect pubic hair combing if pubic hair is present.
 - Patient reference sample

SWABBING:

- Four dry swabs are to be used for evidence collection in body cavities; two damp swabs are to be used for non-cavity site collections. To dampen swabs, apply one to two drops of sterile water to the swab – using more may wash DNA away.
- Do not use fewer than two swabs for non-cavity areas, nor more than four swabs in any body cavity. This will ensure adequate swab collection for analysis and preservation of swab material for additional analysis if needed at a later date. This also helps ensure DNA will not be diluted and become undetectable.
- Use two swabs at a time, held a slight distance apart. Swab over the area to be collected using light pressure and a twirling motion to ensure all sides and the tip of each swab makes contact with the area

being swabbed. Do not “scrub” the area being swabbed. *Light pressure is all that is needed to collect DNA. Too much pressure will collect excessive amounts of the patient’s DNA, which may overwhelm the assailant’s DNA, making identification difficult or impossible.*

- **Every patient should have these areas swabbed:**
 - Foreign matter: Collect any material present on the patient’s body and place in evidence envelope, labeling envelope with name of material (“fiber”, “hair”, etc.) and the location where the foreign matter was found.
 - Oral cavity: using four dry swabs; swab around each tooth at gum line, across gums and under the tongue.
 - If there was contact with the patient’s lips with saliva or semen use two damp swabs to collect evidence, and package in a separate evidence envelope, labeled “external oral, lips”.
 - Pubic Hair: If the patient has pubic hair use the bindle sheet/comb in the evidence envelope and collect any loose debris that may be present by placing the bindle sheet under the patient’s buttocks and combing through the pubic hair. Return bindle sheet *and comb* to evidence envelope.
 - External genitalia without penis/scrotum: (from mons to anus, including clitoral hood, labia majora and minora, fossa navicularis, Posterior Fourchette, and perineum), using two damp swabs. The external genitalia should be swabbed if there was any reported contact (penile or digital); use an “other” envelope and label it “external genitalia”. The pending kit revision contains a new evidence envelope for external genitalia.
 - External genitalia for patient with penis
 - Glans and shaft of penis
 - Scrotum
 - Vaginal cavity, using four dry swabs; swab walls of vagina, then place tip of each swab in cervical os for 10 seconds without movement; this will wick up secretions from the os. Any internal vaginal injury will be swabbed with these swabs, as well. A speculum should be used to collect these swabs; (a small amount of lubrication can be used – document lubricant used on the Patient Information and History Form) but the forensic examination should not be a patient’s first speculum exam. If a speculum is not used blind swabbing of the vaginal cavity is acceptable; make a note that no cervical swabbing was possible.
 - External anal area, from sphincter to one-inch radius around it, using two damp swabs.
 - If anal penetration has occurred swab internal anus to Line of Dentate using four dry swabs. Use traction for two minutes to relax anal sphincter, or use Anoscope (a small amount of lubrication can be used – document lubricant used on the Patient Information and History Form) if allowed by organizational policy and competency.
 - If history indicates collecting hand/fingernail swabs (patient may have scratched assailant) use two damp swabs to swab entire palm of hand, including all surfaces of each finger, and swab under fingernails. Each hand will be swabbed as one body site. Label evidence envelopes as “left hand/fingernails” and “right hand/fingernails”.
 - Additional areas to be swabbed will depend on patient history; swab any injury or body area that had oral contact (such as licking, biting, or sucking) or ejaculate contact.
 - Manual Contact Swabs: Swab any area of aggressive, prolonged, or vigorous skin-to-skin contact (strangulation, manual restraint of wrists or heels, an injury from a slap or fist, etc.); use a “other” envelope and label as “manual contact” and note area swabbed.
 - Digital Penetration: If there was no genital-to-genital contact, or oral-genital contact, but digital touch/penetration was reported, swab the external genitalia and vagina (as noted above), or the

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penis/scrotum. Using a “other” envelope, label it “digital penetration” and note location of collection.

- Patient reference sample
 - Use the lancet to collect the Bloodspot Card, let dry completely
 - You may use a butterfly instead of the lancet, if preferred
 - If labs are being drawn ask the phlebotomist to give you 2ml for the Bloodspot Card

ADJUNCTS to COLLECTION:

- While the Wood’s lamp is no longer recommended, an alternate light source may be used by the SANE or medical staff to determine if any fluorescent staining is present; areas that fluoresce should be swabbed with two damp swabs, dried for 60 minutes, then packaged in an evidence envelope and labeled with site of collection and suspected fluid that may be present (saliva, semen, or blood). Document these areas of collection on the body map. Note: blood will not fluoresce with an alternate light source
- Toluidine Blue Dye (TBD) may be used at the discretion of the SANE or medical staff to increase visibility of an injury that is present but difficult to see/photograph with the naked eye. Photo documentation and external swabs of genitalia need to be completed prior to TBD application and speculum insertion. Additional photo documentation is recommended following the TBD application
- Foley for hymenal visualization:
 - If it is difficult to visualize the hymen insert a foley about three inches into the vagina, inflate with 10-20ml of AIR, then gently pull toward you; the hymen will drape on the foley bulb and its margins will be easily visible.

REASSEMBLING KIT:

- After swabbing, swabs must be air-dried (without air flow – do not use swab dryer fan) for a minimum of 60 minutes. Document the time each set of swabs is collected on the evidence envelope and document time of packaging swabs in the medical record. After drying, place swabs in corresponding evidence envelope. Swabs should be completely dry before packaging.
- Label each envelope with the body site that was swabbed (some pre-printed envelopes are included in the SAECK) and fill out ALL requested information on the envelope. Marking “yes” to ‘was sample collected?’ assures the forensic scientist that even though the swabs may appear unused, the evidence has been collected. Unused envelopes are not to be returned to the Crime Lab. Sign or initial across sealed flap.
 - NEVER lick the evidence envelope to seal!
- Tampons or peripads should be air dried, then placed in a small, paper evidence bag (do not place in SAECK) and labeled as “Wet” – inform law enforcement of wet contents when they pick up the evidence kit. Per local jurisdiction recommendations, the wet product may be placed in a plastic urine cup with holes punched in the lid and then placed into a paper bag that has been clearly labeled “WET”.
- Complete the Patient Information and History form that is included in the Sexual Assault Evidence Collection Kit, providing enough detail about all body contact that the Forensic Scientists can determine probative value.
- Return all sealed evidence envelopes, blood stain card and completed Patient Information and History 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.

CHAIN OF CUSTODY:

- Chain of custody and handling of specimens is done in accordance with established 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 must keep physical possession of the material until custody is transferred to the responding Law Enforcement agency.
- 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 Law Enforcement to prevent any contamination of evidence.
- Ensure evidence is locked in a secured area (per local protocol) if SANE/SAFE or designated staff are required elsewhere temporarily; ensure Chain of Custody reflects storage in locked space.
- If the care of the patient is transferred to another SANE/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 on the SAECK.

MEDICATION and TREATMENT CONSIDERATIONS:

- Depending on patient's condition, any or all may be ordered by the hospital provider, with consent of the patient.
 - Tetanus update
 - Hepatitis B vaccine
 - Nausea medication
 - Antibiotic therapy for prophylaxis for Sexually Transmitted Infections (STI)
 - Antifertility medications
 - Medical imaging for strangulation
- Follow current CDC recommendations or organizational policy for antibiotic prophylaxis for STIs

DISCHARGE/AFTERCARE:

- Discuss aftercare instructions with patient only, unless patient gives permission for family/friend to be present.
- Develop a communication plan for patients who are in a domestic violence situation; they will likely not take written discharge instructions or referrals with them, and a plan for how to contact them for follow-up in a safe manner must be determined.
- Refer to hospital or organizations' discharge instructions. Give sexual assault discharge instructions as available, with specific instructions for strangulation, if needed.
- Ensure a Danger or Lethality Assessment is completed to evaluate the patient's risk for repeated assault or death, as appropriate. In some jurisdictions the Advocate will assist the patient in completing this.
- Complete a Suicide Assessment to evaluate the need for immediate referral for therapy or Contract to Prevent Self-Harm. *All patients should be assessed for suicidal ideation, as this is a common finding after sexual assault (up to 31% of patients who have been sexually assaulted report suicidal ideation).*
- 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) for testing for sexually transmitted infections and pregnancy; prophylaxis cannot be considered to be 100% effective.
 - Refer to local Public Health Department or HIV clinic for follow-up related to HIV status and monitoring.

MEDICAL FORENSIC EXAMINATIONS

- Give referrals as indicated for counseling services and other community resources as available.
- Provide patient with the Victim Notification Form and kit tracking number to track their SAECK.
- Instruct patient to follow up with Law Enforcement as indicated.

PEDIATRIC CONSIDERATIONS:

- All suspected cases of sexual or physical assault of a minor (up to 17 years + 364 days of age) MUST be reported to Law Enforcement and/or CPS, regardless of the wishes of the minor or parent/guardian.
- Preferred personnel to be involved in pediatric cases include:
 - Provider experienced in medical care of the pediatric patient
 - Law Enforcement and CPS (mandated reports)
 - Advocacy – for both the child and parent/guardian
 - Pediatric forensic interviewer
 - This may require transfer to a site that specializes in this care, such as CARES, or a Child Advocacy Center; organizations should have a referral pattern established to care for these patients.
- A medical screening examination will be completed prior to a forensic interview or exam to ensure the child is medically stable.
- If any evidence is collected at the medical center prior to the forensic interview/examination, it shall be properly preserved and protected under the Chain of Custody.
- Forensic interviews may be performed by the CARES team (Children at Risk Evaluation Services, Boise) or other Child Advocacy Center, Law Enforcement, and/or Child Protective Services by specifically trained personnel.
- Forensic interviews are not usually considered emergent and should be scheduled for family convenience and with respect for the child's physical and emotional well-being. It is highly preferential that a forensic interview be completed prior to a SANE/SAFE examination.
- The pediatric patient must assent to all portions of the procedure to prevent re-traumatization.
- 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. Collaboration with a SANE is highly recommended.
- In general, triage of pediatric victims of reported sexual abuse or assault should be performed as follows:
 - **Emergent:** Any child younger than 14 years, reporting sexual contact of the mouth, vagina, penis, or anus in the past 72 hours, or with active bleeding, should be seen at a designated facility to have a medical screening examination and/or forensic examination conducted.
 - **Scheduled** :Any child younger than 14 years reporting sexual contact occurring greater than 72 hours prior to presentation:

If an ED provider or other medical professional has questions regarding care of the sexually assaulted child, they are encouraged to consult with a medical provider trained in sexual assault evaluation. St. Luke's CARES in Boise is available to discuss any case issues (208-381-2222) or call the State SANE/SART Coordinator at 208-884-7286.

REFERENCES

MEDICAL FORENSIC EXAMINATIONS

- National Criminal Justice Reference Service. (2006). National Training Standards for Sexual Assault Medical Forensic Examiners. NCJ 213827; <https://www.ncjrs.gov/pdffiles1/ovw/213827.pdf>
- National Criminal Justice Reference Service. A National Standard for Sexual Assault Medical Forensic Examinations (April 2013), NCJ 228119 <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>
- U.S. Department of Justice Office on Violence Against Women Second Edition. (August 2018) National Training Standards for Sexual Assault Medical Forensic Examiners <https://www.justice.gov/ovw/page/file/1090006/download>
- International Association of Forensic Nurses. (2017). Forensic nursing: Scope and standards of practice (2nd ed.). American Nurses Association.
- Harvard Medical School. (2020, July 6). Understanding the stress response. Harvard Health. <https://www.health.harvard.edu/staying-healthy/understanding-the-stress-response>
- US Department of Justice Office on Violence Against Women. (2016). *A National Protocol for Sexual Abuse Medical Forensic Examinations Pediatric*. <https://www.justice.gov/ovw/file/846856/download>

PREA

(PRISON RAPE ELIMINATION ACT & CONFINEMENT SETTINGS SEXUAL ASSAULT)

GENERAL INFORMATION

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. Addition information and resources on PREA are listed below.

UNIFORM EVIDENCE PROTOCOL FOR EXAMINATION AND INVESTIGATION

All correctional agencies or facilities in Idaho shall report any potentially criminal conduct to the appropriate law enforcement agency and, if an external agency is requested for investigation, shall inform that agency of the requirement to use a uniform evidence protocol in the investigation. The investigation shall ensure the healthcare needs of the victim are met and evidence is collected in a manner to properly preserve it, through a coordinated, multi-disciplinary response that is victim-centered, trauma-informed, and that considers the impact of neurobiology of trauma on the victim. The coordinated response will allow the needs of the victim to be met, while promoting the criminal justice system response. The following recommendations are from *A National Standard Protocol for Medical Forensic Examinations, 2nd ed., April 2013*.

INVESTIGATION:

The investigation of a reported sexual assault must be commenced in a timely fashion; i.e. as soon as logistically possible to preserve evidence from the scene, the victim, and the possible perpetrator. Care should be taken to prevent any alterations in the scene of assault with collection of physical evidence by prevention of access to the scene by anyone until law enforcement/**trained** investigator is able to process the scene and collect physical

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evidence. The investigator will determine the interviews necessary to collect all possible evidence related to the assault; those shall be completed in a trauma-informed manner and with regard for the neurobiological effects of trauma.

Every effort is to be taken to prevent the victim and suspect from engaging in any hygiene activities that could degrade DNA, such as bathing, douching, handwashing, using an enema, using mouthwash or brushing teeth, or washing clothing/bedding. If a urine sample is needed attempt to have specimen collected before victim voids. *If hygiene activities have taken place post-assault evidence swabs should still be taken.*

MEDICAL FORENSIC EXAMINATIONS:

Medical forensic examinations will be offered to all residents/inmates who report sexual assault/abuse; those examinations will be performed by healthcare providers with specialized training in the care of sexual assault patients and may be a SANE (Sexual Assault Nurse Examiner) or SAFE (Sexual Assault Forensic Examiner). When a resident/inmate is a pediatric victim, healthcare providers trained in the provision of pediatric medical forensic care will be utilized, if possible.

The medical forensic examination consists of obtaining a forensic medical history which will guide the healthcare provider to assess and treat acute medical needs after sexual assault, including treatment for possible sexually transmitted infections and possible pregnancy risk (as indicated). The healthcare provider will provide education related to care after the assault, including medical follow-up and referrals for mental and emotional well-being.

Once all immediate healthcare concerns are addressed the SANE/SAFE will collect and preserve forensic evidence, if consent for the same is given by the resident/inmate.

Suspect exams will be performed by healthcare providers with specialized training in the care of sexual assault patients and may be a SANE (Sexual Assault Nurse Examiner) or SAFE (Sexual Assault Forensic Examiner) or trained investigator. It is highly preferable that separate examiners conduct the exams on victim and suspect; when that is not possible every effort will be made to ensure the victim and suspect exams are conducted in separate spaces so no possibility of cross-contamination can occur. At no time should the victim and suspect be in contact with one another, whether under supervision or not.

ADVOCACY:

The resident/inmate will be offered the services of a victim advocate who has experience in assisting victims of sexual assault; the advocate will be allowed to accompany the resident/inmate for the medical forensic examination and the forensic interview to offer advocacy, support during the crisis period and afterward, and to ensure appropriate referrals for on-going support are initiated, as requested or consented to by the resident/inmate.

EVIDENCE COLLECTION AND PRESERVATION:

The medical forensic examination will be scheduled to meet timing considerations for evidence collection, if reported within those time frames and the forensic interview will be scheduled with consideration of the need for sleep for memory improvement. The medical history and forensic examination will guide the collection of evidence from the scene, perpetrator, and from the resident/inmate's body.

Dependent upon the history/interview evidence to be collected may include:

- bedding
- clothing, especially underwear

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- condoms, if used and available
- any objects used in assault/penetration
- foreign matter at scene or on resident/inmate's body
- evidence swabs, including:
 - oral swabs (for reported oral or genital contact)
 - external genitalia swabs
 - external anal swabs
 - Internal anal swabs for reported anal penetration
 - vaginal swabs for female resident/inmates who report vaginal penetration
 - injury and stain swabs
 - bites, licked areas, or suck marks
 - any site where ejaculate may have been
 - any injuries that occurred during the assault
 - lacerations, cuts, tears, abrasions, redness, irritation or swelling.

Evidence to be obtained from a suspect may include:

- clothing, especially underwear
- evidence swabs, including:
 - oral swabs (for reported oral or genital contact)
 - external genitalia swabs
 - hand swabs
 - anal swabs if digital or penile penetration by victim was demanded
 - vaginal swabs, if victim penetration was demanded on female perpetrator
 - injury or stain swabs
 - any scratches or other injury present
 - lacerations, cuts, tears, abrasions, redness, irritation or swelling, and any areas of reported oral or ejaculate contact

Evidence will be properly collected and handled (including drying and packaging, as appropriate) and the Chain of Custody appropriately initiated and maintained. Photographic documentation of all injuries is recommended, if the resident/inmate consents; photographs are taken by the SANE/SAFE/Healthcare provider when feasible.

RESOURCES

- National PREA Resource Center
www.prearesourcecenter.org
- Idaho Sheriffs' Association
www.idahosheriffs.org / (208) 287-0424
- Idaho Department of Corrections
Teresa Jones, PREA Coordinator / (208) 605-4772
tjones@idoc.idaho.gov / victimservices@idoc.idaho.gov (generic IDOC PREA e-mail)
- Idaho Department of Juvenile Correction

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Joe Blume, PREA Coordinator
Joe.Blume@idjc.idaho.gov

- U.S. Department of Justice Office on Violence Against Women. (2013). A National Protocol for Sexual Assault Medical Forensic Examinations. (NCJ 228119).

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.

LAW ENFORCEMENT

- 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.

LAW ENFORCEMENT

- 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.
 - This ensures that the victim can speak freely; at times, it may be the assailant who is with the victim, or the victim may not wish to share parts of the experience with a significant other/support person.
- 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.

LAW ENFORCEMENT

- 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 Options 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.

IDAHO KIT TRACKING SYSTEM (IKTS):

SEXUAL ASSAULT EVIDENCE COLLECTION KIT (SAECK) COLLECTION

- 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 and update IKTS documenting reason for non-submission
 - 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 may 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

LAW ENFORCEMENT

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 before July 1, 2019, 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.
 - For cases on and after July 1, 2019, where a crime is alleged and the allegation has been determined to be unfounded, 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 an 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. 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.

LAW ENFORCEMENT

- 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.

LAW ENFORCEMENT

- 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

LAW ENFORCEMENT

(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.

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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.

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- 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

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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)

GENERAL INFORMATION

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 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.

SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING

IDAHO STATE POLICE FORENSIC SERVICES

- Receive SAECK from manufacturer, create kit in IKTS
- Receive request for SAECK from medical facility:
 - Send requested kits to medical facility
 - Send each kit to the medical facility in IKTS
- Receiving SAECK from Law Enforcement Agency
 - Receive each kit in IKTS and enter Laboratory Case Number
 - At completion of all laboratory analysis complete Lab Data Fields in IKTS
 - If there is a DNA database match, enter that information in IKTS
 - Return SAECK to law enforcement agency and send kit in IKTS

MEDICAL FACILITY

- Addressing an expired kit:
 - Only the ampule of sterile water expires
 - Remove and discard expired ampule
 - Replace ampule with sterile water from organization
 - Document that expired ampule was discarded
 - Document expiration date of new sterile water
 - Use SAECK per protocol
- Returning unused kit(s) to ISPFS:
 - Physically return kit(s) to ISPFS
 - Send each kit in IKTS to ISPFS
- Kit Utilized for purpose other than collecting evidence from a victim of sexual assault:
 - Mark kit as repurposed in IKTS
- Kit used to collected 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

IKTS

- Mark as sent in IKTS to appropriate law enforcement agency

LAW ENFORCEMENT AGENCY

- Receive SAECK from medical facility
 - Pick up kit from facility
 - Mark kit as received in IKTS
 - Complete Law Enforcement Data fields, including planned destruction date
 - Determine if per IC § 67-2919 the kit must be submitted to the laboratory:
 - If the kit SHOULD be submitted to the laboratory
 - Click “yes” under ‘Meets Submission Requirements’ drop down
 - Deliver or ship kit to ISP Forensic Services
 - Mark kit as “sent” in IKTS
 - If the kit should NOT be submitted to the laboratory
 - Click “no” under ‘Meets Submission Requirements’ and select non-submission reason from drop down
- Receiving SAECK from ISPFS after analysis
 - Mark kit as “received” in IKTS and enter planned destruction date
 - Maintain custody of kit per IC § 67-2919
- Transferring SAECK to another agency
 - Turn over custody to that agency and document transfer on chain of custody
 - Mark as “sent” in IKTS, indicating agency kit was given to

PROSECUTOR

- Monitor IKTS for kits requiring review (those noted as Not Meeting Submission Requirements)
- Review listed kits, complete Prosecuting Attorney Review fields

VICTIM

- Access website
- Enter kit number in Serial Number field (upper right corner)
- View kit timeline
- Contact law enforcement handling the investigation (information on timeline) for questions related to kit status

IKTS - ORGANIZATION SET UP

If an organization has not provided SANE exams previously, and is beginning a program to do so, they need to notify the State Coordinator (who functions as a state-wide resource for SANE programs), the IKTS Administrator (to set up access to the online Kit Tracking System), and the ISPFS Meridian Laboratory (if questions about biology/DNA evidence submission). Contacts are:

ISFS Meridian Laboratory:

R3lab@isp.idaho.gov

IKTS Administrator:

IKTS@isp.idaho.gov

State Coordinator:

Deborah.wetherelt@isp.idaho.gov

HOW TO ORDER KITS

Idaho State Police Forensic Services bears the cost of providing the SAECKs; kits are provided free of charge to healthcare organizations that provide SANE exams. Ordering kits is quick and easy! Simply send an email to R3lab@isp.idaho.gov with the following information:

- Name of organization ordering kits
- Address of organization
- Name of person kits should be directed to
- Number of Kits Needed:

Blood and urine toxicology kits can be requested from the ISFS laboratory in your region of the state:

- Coeur d'Alene = R1lab@isp.idaho.gov
- Meridian = R3lab@isp.idaho.gov
- Pocatello = R5lab@isp.idaho.gov

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 an anonymous kit collection. You must expressly indicate your request for an anonymous kit collection; 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).

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

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 (i.e.; 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"/> Head Hair obtained (optional)		
<input type="checkbox"/> Oral Swabs: 4 swabs obtained		

APPENDICES

Exam Process (continued):
<input type="checkbox"/> Miscellaneous swabs:
Location:
<input type="checkbox"/> Pubic hair combings
<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: