

# Sexual Assault: A Protocol for Adult Forensic and Medical Examination



Iowa Department of Public Health

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## PREFACE

This protocol updates “Sexual Assault: a Protocol for Forensic and Medical Examination” last published in March 1998. It outlines the recommended procedure to be followed by emergency departments, physicians and sexual assault nurse examiners in Iowa when conducting a forensic examination following a reported sexual assault of anyone age 13 or over.

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## INTRODUCTION

Sexual assault is a medical emergency and has serious health implications. It is important to encourage sexual assault victims to be examined for the purpose of obtaining medical treatment and to collect forensic evidence in the event the patient decides to pursue legal options. Receiving medical treatment links the victim to multiple other services and support available to victims of sexual assault.

This document provides information to help guide Iowa health care providers in offering a forensic medical examination to victims of sexual assault. The protocol is intended to address issues that are routinely involved in a sexual assault examination. Additional information is available through comprehensive training courses for Sexual Assault Forensic Examiner (SAFE) / Sexual Assault Nurse Examiner (SANE) (See Appendix E). A more detailed protocol is also available through the U.S. Department of Justice, at <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>.

## VICTIM ISSUES

### *Victim Advocates*

Iowa law states that a victim advocate cannot be denied access to a sexual assault victim if the victim has specifically requested an advocate be present. While it is the victim's choice whether or not s/he wants the advocate present or wants to utilize victim advocate services, it is strongly recommended that health care facilities and clinics conducting sexual assault examinations have a procedure in place to notify their local victim service agency when a victim appears for examination. Trained victim advocates play a crucial support role to victims of sexual assault. The victim advocate can legally be present throughout the victim's involvement with the medical and criminal justice systems, and is the only continuous community contact that the victim may encounter following an assault. Trained victim advocates provide crisis intervention, ongoing counseling, and support services. They can provide referrals for other community services, offer legal advocacy, be present during criminal justice proceedings, assist with application for crime victim compensation, and encourage follow up for medical concerns/STI testing. (Refer to Appendix A for Iowa Code sections relating to victim advocates.)

### *Mandatory Reporting*

Iowa law mandates reporting to the Department of Human Services (DHS) incidents of abuse and neglect for two specific populations: children and dependent adults (which may include persons with disabilities who have legal guardians). Specific to sexual assault, it is a mandatory report to DHS only if the caretaker of a child under the age of 18 is the perpetrator of the abuse. (Appendix A)

### *Reporting to Law Enforcement*

The decision to report a sexual assault to law enforcement rests with the victim. Victims are encouraged to report and cooperate with law enforcement; however the victim has the right to refuse to talk with law enforcement, except under mandatory reporting situations. Iowa law requires hospitals to report sexual assault to law enforcement only if the victim is under the age of 12, if a victim suffers a gunshot wound or knife wound, or if a victim sustains serious bodily injury as defined in the Iowa Code section 702.8 (Refer to Appendix A). All other circumstances are considered permissive for reporting purposes, and should only be made with the consent and knowledge of the victim.

### *Payment for Sexual Assault Exams*

The Iowa Attorney General's Crime Victim Assistance Division (CVAD) pays for all sexual abuse examinations through the Sexual Assault Examination (SAE) Program. A police report is not necessary for a forensic exam to be reimbursed by the SAE Program. The fees for the examiner and for the agency are established separately by the Iowa Legislature and are detailed in the Iowa Administrative Code. Each service, including laboratory tests and pharmacy charges, must be itemized on the billing form. The SAE program pays for the initial visit and unlimited follow up visits for the purpose of testing/prevention of diseases. The rules prohibit medical providers from billing the sexual abuse victim for the cost of the exam. The patient's insurance *cannot* be billed unless the patient gives permission to bill the insurance carrier (Appendix C).

## **SPECIAL VICTIM CONSIDERATIONS**

### *Cultural/Religious*

Cultural and religious doctrines have profound impact on individuals and must be considered when treating the sexual assault victim. There may be a general distrust of medical and law enforcement personnel who play vital roles in the aftermath of a sexual assault. In some cultures, the loss of virginity is an issue of extreme importance because it impacts the victim's future honorable marriage. Religious doctrines may prohibit a female from disrobing in the presence of a male who is not her husband. Law enforcement, medical and support professionals must be sensitive to these issues, and have a basic level of cultural competence regarding those who live in their communities.

### *Elderly Victims*

As with most other sexual assault victims, the older victim may experience humiliation, shock, disbelief, and denial. In addition, there is fear of losing independence if they disclose the sexual assault. Fear, anger, or depression can be severe in an older victim, who is often more isolated and may live on a limited income. In general, older persons are physically more fragile than the

young. Injuries from an assault are more likely to be serious and possibly life-threatening. In addition to exposure to sexually-transmitted disease, the older victim may be more at risk for other tissue or skeletal damage and exacerbation of existing illnesses. The recovery process for an older victim is often lengthier than for someone younger. Hearing impairment and other physical conditions attributed to advancing age, coupled with the initial reaction to the crime, may render the older patient unable to make his or her needs known. Medical and social follow-up services must be made easily accessible to an older victim. Without encouragement and assistance in locating services, many may have difficulty with emotional and physical recovery from the crime and will be reluctant to proceed with the prosecution of their offenders.

### *Victims with Disabilities*

A victim who has one or more disabilities is often targeted by perpetrators of sexual assault because of their perceived vulnerability or ease of access. Sexual assaults committed against those who are emotionally, physically, cognitively or communicatively disabled are often unreported and seldom successfully prosecuted. Offenders are typically caretakers, family members or acquaintances who can repeatedly abuse the victim because s/he is not able or will not report the crime. A victim with a disability may require additional time and accommodation during the interview process with law enforcement and during the forensic exam with medical personnel. If the victim is designated as a dependent adult, a mandatory report to DHS will need to be initiated. Providers need to inform the victim about specialized support services that may be available to them (Appendix D).

### *Victims of Domestic Violence*

Sexual assault by a spouse is a grave indicator of the danger a victim of domestic abuse faces and must be taken seriously. A woman who is raped by her partner is more likely to die from his subsequent actions. Providers must determine whether the assault occurred in the context of a domestic abuse incident so that proper legal referrals and services can be provided. A victim who has been sexually assaulted by a partner most likely has experienced other forms of physical and emotional abuse from that partner. Providers should have a procedure in place for contacting the local domestic violence crisis center when victims of domestic violence are seen in the hospital or clinic. Consider arranging with the center to offer safe options before the victim leaves the facility following the exam. At minimum, a referral to the local service program or hotline should be offered after the initial sexual assault report and examination.

### *Male Victims*

There is great reluctance on the part of most male victims to report sexual assault. Multiple cultural and societal beliefs impact a male victim's decision to seek services. He may have serious concerns about his inability to prevent the assault. As with most other sexual assault victims, he needs reassurance that this violent crime was not his fault. Males who may have been assaulted by other males and do not identify as homosexual may also have serious worries about their gender identity.

### *Gay, Lesbian, Bisexual, Transgendered, Inquiring or Queer (GLBTIQ) Victims*

The GLBTIQ sexual assault victim is often reluctant to seek services for multiple reasons. There is a concern of encountering barriers of prejudice and ridicule as a result of reporting sexual assault. Another consideration may include that the victim's family/friends are not aware of the victim's sexual orientation. Fears of being "outed" and ostracized may be more traumatizing for the victim than the assault.

### *Incarcerated Victims*

As in the general population, sexual assault is unreported and underreported in the prison system. Multiple factors may inhibit or preclude the incarcerated victim from reporting a sexual assault. The Prison Rape Elimination Act of 2003 (PREA) was enacted to address problems of sexual assault in correctional agencies. Development of standards for prevention, detection, reduction and punishment of prison rape is a major provision of the act. PREA initiated discussions between prison officials and local care providers to establish best practices for incarcerated victims of sexual assault. In order to ensure the same standards of care for the incarcerated victim, sexual assault victims are transported to local facilities for forensic examinations. It is recommended that community health facilities serving prisoners in Iowa have a procedure in place for conducting and documenting sexual assault of an incarcerated prisoner.

### *Child Sexual Assault Victims*

The Iowa Code states that minors (under 18 years) who are victims of sexual assault can receive immediate medical and mental health services without prior consent of a parent or guardian. In addition, minors can consent to STI testing, treatment, and prevention (vaccination) without parental consent. The Iowa Codes specifies definitions of sexual abuse, mandatory reporting situations and age guidelines regarding sexual assault of a minor. In Iowa, those aged 16 and older are of legal age to *give consent* to have sex. If a sexual assault victim is under 12 years of age, it is a mandatory report to law enforcement or DHS (refer to Appendix A). Depending on the institutional policies and the sexual maturation of the victim, some victims may be referred to the closest Child Protection Center (CPC) for evaluation (refer to Appendix F). The CPCs have multi-disciplinary staffs that are uniquely trained to provide services to children and their families. Forensic physical examinations and histories of children are uniquely different than adults. Children are not small adults either physiologically or emotionally.

### *Pregnancy and STI Issues*

It is recommended that all victims of sexual assault who seek medical forensic care be offered emergency medical treatment. Counseling about pregnancy prevention and the importance of timely action is a necessary part of the emergency treatment. Ideally, emergency contraception should be initiated as soon as possible and within 72 hours after the sexual

assault. Health care facilities or physicians who do not offer these services must have an established, timely procedure to assist the victim who wishes to take emergency contraception. Information regarding the risks of Sexually Transmitted Infections (STIs), including HIV, after a sexual assault must be provided to the victim. Offer victims prophylaxis against STIs at the time of the initial exam. Consider the need for testing victims for STIs on a case-by-case basis. Post exposure prophylaxis for HIV must be discussed with victims, including the necessity to begin prophylactic medication within 72 hours of the sexual assault. Health care facilities or physicians who do not offer these services must have an established timely procedure to assist the victim who chooses to take HIV prophylaxis medications.

### *Medications to Prevent Sexually Transmitted Infections (STI)*

The most recent CDC Treatment Guidelines (2015) for sexual assault and STI preventive therapy recommend:

- Postexposure hepatitis B vaccination (without HBIG) should adequately protect against HBV infection. Hepatitis B vaccination should be administered to sexual assault victims at the time of the initial examination if they have not been previously vaccinated. Follow-up doses of vaccine should be administered 1–2 and 4–6 months after the first dose.
- An empiric antimicrobial regimen for chlamydia, gonorrhea, trichomonas, and bacterial vaginosis.

#### **Recommended Regimens**

**Ceftriaxone** 250 mg IM in a single dose (GC)

**PLUS**

**Azithromycin** 1 gm orally in a single dose (GC & Chlamydia)

**PLUS**

**Metronidazole** 2 gm orally in a single dose (Trichomoniasis)

Summary of CDC 2015 STD Treatment guidelines with alternatives:

<http://www.cdc.gov/std/tg2015/2015-pocket-guide.pdf>

- HIV Prophylaxis

The CDC recommends that patients who have been sexually assaulted are offered HIV prophylaxis. The National AIDS/HIV Consultation Center PELine can be reached at (888) 448-4911. See Appendix B and the following website for specific guidelines regarding risks and current medication recommendations.

<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5402a1.htm>.

## **COORDINATED RESPONSE**

Coordinated response occurs when several community agencies work together for the benefit of victims. Successful sexual assault programs do not operate independently of other disciplines. Typically, the community agencies that work together to respond to sexual assault are local law enforcement, county attorney offices, victim service agencies, and emergency departments or Sexual Assault Nurse Examiner (SANE) programs. Agencies can assist one another by building a collective capacity for coordinated response and interventions. This can be accomplished by offering multidisciplinary trainings and technical assistance; sharing personnel, expertise, equipment and information; meeting face to face to develop relationships among disciplines; and developing policies and protocols that facilitate mutual goals in victims' services across systems. Overcoming barriers in individual communities requires willingness on the part of agencies to individually and collectively understand the unique needs of victims in their community and to identify solutions. For more information, go to the Office of Victims of Crime (OVC) SART tool kit: <http://ovc.ncjrs.gov/sartkit/>. In addition, contact the [Iowa Coalition Against Sexual Assault](#) for a current list of SART-SANE programs in Iowa.

### *Victim Advocates*

The importance of having a victim advocate available to survivors of sexual assault cannot be over-emphasized. Advocates are critical to containing the aftermath of the trauma and to begin the healing process. Advocates can assist emergency department staff to explain the purpose and value of medical and forensic evidence collection procedures, provide emotional support during the examination, counsel family members or friends of the survivor, and be present during the law enforcement interview. Hospitals need to have a protocol that includes contacting the nearest sexual assault service center to notify them when a patient has presented to the emergency department. When the advocate arrives, he or she should be introduced to the patient as part of the sexual assault team and be given an opportunity to explain the services available. The patient can exercise a choice to have an advocate. Under Iowa Code section 910A.20 (2), a victim advocate cannot be denied access to a victim if that victim has specifically requested the advocate to be present. To identify sexual assault advocacy services in your community, refer to Appendix D.

### *Health Care*

An important member of the health care team includes emergency department staff. The victim's medical status is the priority. The role of emergency department staff is to assess, evaluate, and stabilize the victim; and identify and treat injuries prior to discharging the victim to the care of the Sexual Assault Nurse Examiner (SANE). SANEs are nurses who are specially trained to perform the evidentiary examination. They offer many advantages because time and competency are critical for preservation of forensic evidence. The availability of a SANE frees other emergency room staff that may have to interrupt an exam to attend to more critical cases. SANEs attend to survivors expediently which decreases the wait time before survivors are allowed to bathe, void, eat, and drink. Lastly, SANEs have the specialized expertise and sensitivity necessary for a thorough examination and preservation of evidence. Depending upon local administrative arrangements, SANEs may be able to travel to hospitals or facilities to examine a survivor, which is

particularly important in rural areas of the state that do not have sexual assault resource teams. For more information, go to <http://www.forensicnurses.org/>.

### ***Law Enforcement***

The primary responsibilities of the responding officer are to ensure the immediate safety and security of the victim and to obtain basic information about the assault in order to apprehend the assailant. The responding officer should convey the following information to the sexual assault victim if she or he is the first professional contact the victim makes:

- The importance of a medical and evidentiary examination. The officer should explain the value of preserving potential physical evidence. Additionally, the importance of preserving potentially valuable evidence which may be present on clothing worn during the assault or on bedding or other materials involved at the crime scene. The officer should recommend that a change of clothes be brought to the hospital in the event clothing is collected for evidentiary purposes.
- The name and phone number of the nearest rape crisis center and the importance of the support and services they offer. If appropriate, give information about the Sexual Assault Examination Payment Program and provide a brochure (available from the Crime Victim Assistance Division).

### ***Prosecution***

The prosecutor plays a key role in the criminal justice system. She or he decides who will be charged, what charge will be filed, who will be offered a plea bargain, and the type of bargain that will be offered. The prosecutor also may recommend the offender's sentence. Although each of these decisions is important, none is more critical than the initial decision to prosecute or not to prosecute. Prosecutors have broad discretion at this stage in the process. There are no legislative or judicial guidelines about charging, and a decision not to file charges ordinarily is immune from review. According to the Supreme Court, "So long as the prosecutor has probable cause to believe that the accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand jury generally rests entirely in his discretion" (*Bordenkircher v. Hayes*, 434 U.S. 357, 364 [1978]).

In most cases, a prosecutor will not file charges if the sexual assault victim is unwilling to cooperate with law enforcement or prosecution; however, there are exceptions to this and decisions are made on a case-by-case basis. For more information, see: Spohn C & Holleran D. *Prosecuting Sexual Assault: A Comparison of Charging Decisions in Sexual Assault Cases Involving Strangers, Acquaintances, and Intimate Partners*. US Dept of Justice, 2004. (available at <http://www.ncjrs.gov/pdffiles1/nij/199720.pdf>)

### ***Forensic Scientists***

Forensic scientists analyze collected evidence and provide results to the investigators and/or prosecutors. In Iowa, the Division of Criminal Investigation (DCI) of the Iowa Department of Public Safety processes sexual assault examination kits that are submitted by local law enforcement. Typically, these kits are not submitted for analysis until after charges are filed in a sexual assault. Kits that are collected by health care facilities or SANEs are turned over to law enforcement who are responsible to properly log and store them until they are released for processing. The DCI also distributes new exam kits to facilities so they can keep them on hand when a sexual assault victim appears for examination. To request a supply of kits or for more information, contact (515) 725-1500 or go to: <http://www.dps.state.ia.us/DCI/lab/index.shtml>.

### *Crime Victim Assistance Division*

The Crime Victim Assistance Division's Sexual Assault Examination Payment Program covers the costs of the medical and evidentiary examination. This program pays for the costs of other health care needs of the sexual assault victim such as prophylaxis medication and follow up examination. For more information, go to: <https://www.iowaattorneygeneral.gov/for-crime-victims/sexual-assault-examination-payment-program/>. In some cases, victims of sexual assault may be eligible for compensation of other expenses related to the crime. For information about the crime victim compensation program, which requires separate application, refer to Appendix C.