



Sexual Assault Protocol

Department Generating Policy: Emergency Department

Purpose: To outline the role of the ER RN once the victim arrives to the emergency department and what steps are to be followed once the victim is brought back to a room. This also outlines the role of the S.A.N.E. trained RN and emphasizes the importance of the victim having some control over the process, including notifying law enforcement.

Medical: To identify and treat injuries, assess the risk of pregnancy and sexually transmitted diseases, document the history, document medical findings, provide prophylaxis for sexually transmitted diseases and emergency contraception when indicated.

Social/Psychological: To respond to the patient's immediate emotional needs and concerns, assess patient safety and assist with interventions, provide information about typical reactions, fear reduction and coping strategies, and explain the reporting process and Crime Victims Compensation.

Forensic/Legal: To collect forensic evidence, preserve evidence integrity and maintain the chain of custody, transfer evidence to law enforcement with appropriate consent.

Refer/Report: To refer for follow up medical care, advocacy or counseling, assist with report to law enforcement as requested by the patient, in cases of minors or vulnerable adults, report to appropriate authorities as required by law.

DEFINITION:

Sexual assault is the act of sexual intimacy performed by one person upon another without mutual consent, either by force, or by threat of force, or by the inability of the victim to give adequate informed consent due to age, intellectual or physical incapacity (RCW 9A.44.010).

Key Concepts and Terms

S.A.N.E.: sexual assault nurse examiner

SANE trained: RN that has went through a SANE course

SAKs- Sexual Assault Kits

Audience

Emergency Department

Policy

In general, the medical/forensic exam is indicated on an urgent basis when the assault or suspected assault occurred within the prior 120 hours. If the assault was more than 120 hours prior to the forensic exam it is generally not indicated on an emergency basis. In some circumstances the time frame may be longer.

Examples include:

- Cases of abduction
- Cases of suspected abuse of vulnerable adults
- The decision should be made by the provider in consultation with the patient, sexual assault advocate and law enforcement when needed.

1. If the ER Department receives a telephone triage, advise the patient:

- a. Not to bathe prior to exam
- b. Bring in the clothes worn at the time of the assault and to bring a change of clothing.
- c. The exam wait time may be several hours

2. Patient Centered Care

- a. These are priority patients and should be triaged for care immediately after those with life threatening illness or trauma.
- b. The patient should be informed about the Crime Victims Compensation Program (Sexual Assault Exam Report/Domestic Violence Strangulation report form)
 - i. The initial exam for sexual assault for the purpose of gathering evidence for possible prosecution must be billed to Washington State Crime Victims Compensation
- c. A Sexual Assault Advocate should be contacted in all cases.
- d. A SANE will be contacted to perform the exam.
 - i. In the case that a SANE cannot come in for the exam an ER RN will perform the exam.
- e. Patients should be moved to a treatment room as soon as possible.
- f. Each step in the process should be explained to the patient.
- g. **The patient may refuse any aspect of the exam or evidence collection.**
- h. The patient may have difficulty deciding immediately if he/she wants to make a police report.
 - i. A police report does NOT have to be made in order for evidence to be collected

3. Obtain Consent- patient consent makes coordination of services more efficient such as the photographs of bodily injuries and safety planning by the advocate

- a. Reporting to Law Enforcement is the patient's choice unless the patient is a vulnerable adult or minor
- b. The patient should provide consent for the collection of evidence and understand the consequences of consent and refusal of evidence collection.
 - i. The patient should specifically be informed of the consequences of declining evidence collection procedures as that may impede criminal prosecution.
- c. Medical staff must obtain patient consent before discussing the case with law enforcement, advocate or anyone else.
- d. In general, any minor age 13 or older may consent to a sexual assault forensic examination conducted to gather evidence for possible prosecution. Any minor age 13 or older may consent to testing for any sexually transmitted disease or suspected sexually transmitted disease as a result of a sexual assault (SB 5937)
 - i. There are special exceptions for reproductive health care and these exceptions apply in part to medical care after sexual assault
 - 1. A female may obtain confidential care for pregnancy or birth control regardless of age (RCW 9.02)
 - 2. The patient must be able to give informed consent that they understand the risks and benefits of the medical treatment and treatment alternatives

4. When the Patient is unable to Consent:

- a. If the patient is not able to consent due to a transient condition (i.e., intoxication), the sexual assault exam should be delayed until the patient is capable of consent. This judgement should be made by the healthcare provider/SANE
- b. If the patient is not able to consent due to a long-term medical condition, or if evidence will be lost (going to surgery), the healthcare provider/SANE will determine whether, in his/her opinion, evidence collection is in the best interest of the patient
 - i. •With this assessment it is legally permissible to collect forensic evidence including clothing, hair and swabs from skin and orifices
 - 1. This evidence will be stored until appropriate consent from the patient or legally authorized representative is obtained
 - 2. Evidence kit and clothing must be stored in a locked cabinet at room temperature

5. Mandatory Reporting: Minors

- a. Healthcare workers, law enforcement personnel and other mandated reporters must report within 48 hours when they have reasonable cause to believe that a child under the age of 18 years of age has suffered sexual abuse or sexual exploitation (RCW 26.44.030)

- b. Sexual abuse includes consensual sexual contact when there is a significant difference in age

Age of the Victim	Age of the Offender	RCW
Less than 12	24 Months or older than the victim	9A.44.073
12 or 13	36 months or older than the victim	9A.44.076
14 or 15	48 months or older than the victim	9A.44.010

- c. A report of suspected child abuse or neglect must be made to CPS or law enforcement
- i. The patient should be clearly informed of the limitations of confidentiality and the requirements of CPS or policy reporting

6. Confidentiality of Minors –

- The patient should be clearly informed of the limitations of confidentiality and the requirements of CPS or policy reporting
- The medical provider/SANE should emphasize that privacy is not assured after a police report is made
- The medical provider/SANE should talk with the patient, discuss how to tell parents or guardian of the event and offer to assist the patient with this communication

7. Mandatory Reporting: Vulnerable Adults

- a. When there is a suspicion of sexual abuse or assault of a vulnerable adult, a report must be made immediately to law enforcement and to the appropriate agency (RCW74.34.035)
- b. A vulnerable adult is defined by law as a person:
- 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself; or
 - Found incapacitated under chapter 11.88 RCW; or
 - Who has a developmental disability as defined under RCW 71A.10.020; or
 - Admitted to any facility; or
 - Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or
 - Receiving services from an individual provider; or
 - Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.
- c. For residents of long-term care facilities including nursing homes, boarding home, or adult family homes, a report must be made to law enforcement AND DSHS Complaint Resolution Unit (1-800-562-6078)
- d. For vulnerable adults who live in their own homes, a report must be made to law enforcement AND Adult Protective Services (1-800-363-4276)



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Procedure

Triage: The triage process should be completed in a private environment. If there are physical injuries consider completing triage and registration at the bedside. Do not leave the patient in the waiting area

- 1) Medical stabilization always precedes forensic exam. The following history or conditions should be evaluated medically prior to the sexual assault exam:
 - a. History of loss of consciousness
 - b. Altered consciousness or mental status
 - c. Head injury
 - d. Significant facial injury.
 - e. Possible fractures
 - f. Blunt trauma to abdomen or back
 - g. Active bleeding
 - h. Pregnancy
 - i. Psychiatric illness
 - j. Strangulation or choking
- 2) If apparent psychiatric illness complicated assessment of the report of sexual assault, both psychiatric assessment and medical forensic exam often will be necessary. Proceed according to patient needs and tolerance

Medical Screening Exam

- 1) Any Acute medical care must occur before the evidence collection. Acute injury is always the priority. The physician must screen for injury. Do not delay medical care for evidence collection.

History

- 1) History of the event will be taken using the Sexual Assault form following recommended state guidelines
- 2) The medical history is not a forensic interview. It is not necessary for the medical provider/SANE/primary RN to obtain forensic details such as the description of the assailant, exact location of the assault, etc. This information should be obtained by law enforcement.
- 3) Law enforcement is NOT to remain in the room during the medical exam or evidence collection.

Exam

Physical: A complete head to toe exam is performed with particular attention to findings that may indicate injury, bite marks, bruises or suction wounds

- Documentation of injuries on the tomogram or with photographs will assist in the legal arena
- Observation of injuries will also guide specimen collection as those areas will be swabbed
- **Evidence Collection:** Using the Tri-Tech Kit, forensic evidence will be collected as detailed in the Recommended State Guidelines –Sexual Abuse Emergency Medical Evaluation of the Adult/Adolescent
- **Forensic Photography**



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- All patients will be asked for written consent before photographs are taken. The patient will initial on the specific line(s) of the consents for Examination, Evidence Collection, Photography, and Emergency Contraception on the SA/Strangulation form.
- The camera will be checked by the SANE/SANE trained RN or person who will be using the camera prior to make sure there is no SD card in the camera
- The SANE/SANE trained RN will remove a SD card from the pyxis by override option listed under the patient.
 - If there are pictures on the SD card, the memory disk should be completely erased before taking pictures of the new case.
- Drape the patient appropriately to avoid unnecessary exposure.
- The initial picture should be of the patient's label that includes the patient's name, date of birth, and date of hospital services are documented
- The 2nd picture will be of the patients face, **reminding them not to smile.**
 - No pictures are needed if there is no documentation of injury.
- All injuries, along with being photographed should be drawn on the trauma gram body drawing that is provided on the examination form.
- All **non-genital** photographs of traum will include three pictures of each injury. All genital pictures need to be taken once but can be from different angles.
 - The Three pictures will show the following
 - Distance shot that clearly identifies the location on the patient's body (3ft away)
 - Close-up of the injury without a measuring tape
 - Close-up of the injury with a measuring device or an object of known size
- The last picture should be of the patient's label that includes the patient's name, date of birth, and date of hospital services are documented
- No pictures will be deleted from the memory device, include any and all pictures that were taken even those pictures that were not clear and were retaken.
- After all photos have been taken, the SANE/SANE trained RN will remove the SD card from the camera and put it in a small manila envelope. The envelope will be labeled with a patient sticker
- Once the SANE/SANE trained RN has completed the full examination, he/she will place the manilia envelope containing the SD card into a locked mailbox, located on the wall in the SANE closet, ensuring custody was intact.
- The Emergency Department Director will upload the contents of the SD card to a secured location. Once the photos are uploaded, the SD card will be erased and given to pharmacy staff to restock the pyxis.

Photographs may be release to law enforcement by the HIM department with proper authorization **EXCEPT** genital/anal photos. Because of the extremely confidential nature of the photos, these are released only in response to a subpoena.

STD Testing

1. STD testing is not forensically useful and positive tests usually indicate pre-existing infection
2. STD testing will not be done in the ED unless the patient specifically requests specific testing or the medical provider deems it is necessary.
3. HIV testing will not be done in the ED unless the patient specifically requests specific testing or the medical provider deems it is necessary.
4. The exceptions are vulnerable adults and young adolescents. In these cases, if there has been no prior consensual activity, STD testing may be legally important.

STD Prophylaxis

1. STD prophylaxis will be offered without testing

Toxicology Testing

1. Urine drug screen or blood alcohol may be obtained if the patient appears impaired, intoxicated or has altered mental status
 - a. Urine can be tested up to 120 hours of the assault
 - b. Blood can be tested within 48 hours of the assault
2. If the patient reports blackout, memory loss, or has partial to total amnesia of the event
3. If the patient has a concern that he or she may have been drugged
4. Tests for legal evidence will be performed at the Washington State Toxicology Lab
5. If there is a concern of drug facilitated assault, an alcohol level obtained within 8 hours may be useful

Emergency Contraception

1. If the patient wants to take the emergency contraceptive to prevent a pregnancy that may have resulted from this sexual assault, she shall be given emergency contraceptive medication here in the emergency department as required by WAC 246-320-010 emergency contraception guidelines.
2. If it is determined that:
 - a. The patient may be at risk of pregnancy as a result of sexual assault
 - b. Her pregnancy test in the ED was negative
 - c. It is within 5 days (120 hours) of the sexual assault
3. The SANE trained RN or ED RN will consult with the ED physician and get an order to administer Levonorgestrel 1.5 mg or Ulipristal 30 mg to take before discharge.
 - a. Patient education shall include
 - i. A common side effects of these medications are nausea, headache, and abdominal pain.
 - ii. The patient is instructed to follow-up with their primary doctor to recheck a pregnancy test in 1-2 weeks after the assault or if her period has not come within 1 month of her expected menstrual cycle.



- iii. The RN will emphasize the importance of using a backup contraceptive while waiting for the pregnancy and culture results since taking Levonorgestrel will cause immediate ovulation.

It is best that the ED physician orders the levonorgestrel or Ulipristal and for the patient to take it before leaving the ED, but a prescription can be given to the patient if that patient requests. The patient may also get levonorgestrel over the counter without a prescription but only if age 18 or older. Under 18 years of age and without a prescription, the patient must be accompanied by a parent for the pharmacy to legally dispense the medication.

If the patient refuses the Levonorgestrel or Ulipristal, the RN will document that the patient's risks were discussed with the patient and the patient declined the preventive medication. The ED physician will be informed of this decision at the completion of the exam as well.

Tetanus Prophylaxis

Tetanus will be offered when there are open skin wounds and the patient is not up to date for tetanus immunizations

HIV Post-Exposure Prophylaxis

The patient will be offered a 28-day supply of HIV prophylaxis if indicated.

The SANE trained RN or ED RN that completed the exam will be responsible for maintaining the chain of evidence. The staff member at all times will maintain continuous physical possession of specimens and items of evidence, or will lock specimens in a closed secure area (room or cabinet). All SAKs will be logged into the Washington State Patrol Sexual Assault Kit (SAK) Tracking System. All unreported SAKs will be turned over to the local police department (Toppenish Police, Yakima County Sheriff, Yakama Tribal Police, etc.) that has jurisdiction for storage.

Authorization for Release of Confidential Health Information –Information, medical records, photographs obtained by medical personnel and evidence including clothing and forensic evidence are protected health information and are subject to HIPAA regulations.

2) Records and evidence cannot be transferred to law enforcement until authorization for release is obtained (exceptions for minors and vulnerable adults)

3) Authorization may be made by:

- a. The patient
- b. Legally authorized surrogate decision maker
- c. Court order or warrant
- d. Even if the patient is brought in by law enforcement, consent from the patient or legally authorized surrogate decision maker must be obtained before releasing information to law enforcement



- 4) Photographs may be released to law enforcement with proper authorization EXCEPT genital/anal photos. Because of the extremely confidential nature of the photos, these are released only in response to a subpoena.

References

Washington State Sexual Assault Emergency Medical Evaluation Adult and Adolescent (2017). Retrieved from

<https://depts.washington.edu/uwhatc/PDF/guidelines/Recommended%20Guidelines-2017-adult.pdf>

Washington State legislature (2018). Retrieved from

<https://app.leg.wa.gov/rcw/default.aspx?cite=9a.44.130>

WSP (2018). Washington State Sexual Assault Kit (SAK) Tracking System. Retrieved from

<https://www.wsp.wa.gov/sak-tracking/>

Smock, W., and Besant-Matthews, P., (2016). Forensic photography in the Emergency Department. *Emergency Medicine*.

Washington State: WAC 246-320-010

Harborview Medical Photography Guidelines (2010)

Dhingra, Lovick, & Nguyen, W. (n.d.). Retrieved July 25, 2024, from

<https://lawfilesexternal.wa.gov/biennium/2023->

[24/Pdf/Bill%20Reports/Senate/5937-](https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/Senate/5937-)

[S2.E%20SBR%20FBR%2024.pdf?q=202407251359](https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bill%20Reports/Senate/5937-S2.E%20SBR%20FBR%2024.pdf?q=202407251359)