

# Sexual Assault Forensic Medical Examination

This module provides basic information on the sexual assault forensic medical examination and related considerations for victims with disabilities.<sup>1</sup>

## Key Points

Service providers to whom victims first disclose sexual victimization can help facilitate the forensic medical exam process by following the steps below (after addressing victims' immediate needs for medical treatment, crisis intervention and safety planning).

- Explain to victims (and their caregivers/guardians when appropriate) the need for a forensic medical examination to assess medical needs and collect forensic evidence related to a recent sexual assault.
  - Explain what happens during the exam process, keeping in mind the amount of information that victims want/can handle at this time. Inform them that a victim advocate may be available to be with them during the examination and beyond. Inform them of the medical facility options and their options for transportation to a medical facility. If they have a disability, encourage them to let responders know how to best accommodate their needs.
  - Explain how to help preserve bodily evidence until it can be collected (e.g., do not wash, change clothes, urinate, defecate, smoke, drink, eat, brush hair or teeth, or rinse mouth). Explain that in suspected cases of drug/alcohol facilitated sexual assault, their first available urine should be collected and brought to the medical facility if they cannot wait to urinate until arrival at the facility. Explain that since their clothing may be taken as evidence, they may wish to arrange to have a change of clothes at the medical facility. (NOTE: In some facilities replacement clothing may be available.)
  - Explain who pays for the exam. In WV, the state covers the forensic costs if the exam is conducted within 96 hours of the crime. Victims are responsible for any non-forensic treatment costs.
  - Inform victims of their reporting options. They can have the forensic medical exam conducted within 96 hours of the crime even if they have not decided about reporting the sexual assault to law enforcement. There is no statute of limitations on reporting sexual assault. Collected evidence in a non-report will only be stored for up to 18 months.
- Explain that if the sexual assault was not recent, victims can still access medical care, advocacy and other services. They can report the crime to law enforcement and discuss with responders whether evidence might be available to corroborate their account of the sexual assault.
- Give victims the opportunity to discuss their concerns and ask questions about their health, the exam, reporting, advocacy, etc. Help them identify their options for addressing these concerns.

- Respect victims' decisions related to advocacy services, reporting (except if there is a threat of self-harm, harm to others or a mandatory reporting situation), and the forensic medical exam (the exam should never be done against their will). If victims would like to receive support from advocates, report and/or seek protective services from law enforcement or have the exam done, service providers can connect them with the appropriate responders.

## **B11. Sexual Assault Forensic Medical Examination**

### **Purpose**

This module offers basic information on the sexual assault forensic medical examination and related considerations when victims have disabilities. When victims initially disclose sexual violence to service providers, it is important that providers are able to generally explain the forensic medical exam process. This explanation can help victims make informed decisions related to the exam. Providers can also link victims with first responders to sexual assault, guide them in preserving evidence and obtaining support to minimize retraumatization and begin the healing process.

This module does not go into depth regarding the clinical or forensic aspects of the examination. For further guidance on the discipline-specific and coordinating roles of first responders in West Virginia before, during and after a sexual assault forensic medical exam, see the *West Virginia Protocol for Responding to Sexual Assault*, available through <http://www.fris.org>. Also see *A National Protocol for Sexual Assault Medical Forensic Examination, Adult/Adolescent*, available through <http://samfe.dna.gov>.<sup>2</sup>

### **Objectives**

Those completing this module will be able to:

- Describe the purpose of the sexual assault forensic medical examination, what it entails and who conducts it;
- Discuss who may be involved in the immediate response to sexual assault, their respective roles and the importance of a coordinated response to victims;
- Discuss considerations during the examination for victims with disabilities; and
- Answer related questions that often arise, such as whether the exam can be performed if victims are undecided about reporting the crime, which entities cover the cost of the exam and what happens when disclosures are delayed.

### **CORE KNOWLEDGE**

#### **What is the purpose of a sexual assault forensic medical examination?**

Following a sexual assault, victims may require medical attention for their injuries and need to address their health concerns. There may be evidence on their bodies that could be collected and information that needs to be gathered about the assault, if the victim is considering reporting the assault to law enforcement. Since the body is the crime scene, evidence is time-sensitive and may only be present until the victim bathes, washes and/or urinates.

The purpose of the sexual assault forensic medical exam is to assess a victim's health care needs and to collect evidence for potential use during case investigation and prosecution.<sup>3</sup> An examination by a health care provider is still recommended even if (1) there are no visible injuries as a result of the assault, (2) the victim does not wish to have evidence collected, or (3) the assault was not recent. In these cases, the victim may have injuries that are not apparent or acute or have related health concerns.<sup>4</sup>

### **What does the forensic medical examination include?**

Specifically, the forensic medical exam includes:

- Support and crisis intervention;
- Information gathering from the victim for the forensic medical history;
- An examination/medical assessment;
- Coordination of treatment of injuries;
- Documentation of biological and physical findings;
- Collection of evidence from the victim's body;
- Information, treatment and/or referrals for sexually transmitted infections, pregnancy and other non-acute medical concerns; and
- Follow-up care as needed to facilitate additional healing, treatment or collection of evidence.<sup>5</sup>

Since the mid-1990s, there has been momentum to improve the quality of the sexual assault forensic medical examination and address problems historically associated with it, such as:

- Long waits in hospital emergency departments for victims to receive care;
- Limited services for victims and a lack of coordination among responders;
- Health care personnel who were not proficient in forensic evidence collection and who were reluctant because of the possibility of being subpoenaed to testify; and
- Lack of information for victims on policies regarding payment for the examination, as well as incorrect hospital billings.

Many resources are now available to help communities ensure that the examination is more effective in facilitating victim healing and case investigation. These include guides to creating standardized protocols, evidence collection kits, training programs for examiners, guides to developing sexual assault response teams (SARTs) and materials for victims describing what to expect during the examination.

Contact the West Virginia Foundation for Rape Information and Services (FRIS) at <http://www.fris.org> to learn about related efforts in West Virginia.

### **How is the forensic medical exam different from a medical exam?**

The biggest difference is that a medical exam is solely for health purposes, while a forensic

medical exam is geared to address victims' health concerns related to a sexual assault and to collect and preserve forensic evidence. And while most local health providers are able to provide general medical care, not just anyone can conduct a sexual assault forensic medical exam (as explained below). Sexual assault forensic medical examinations in West Virginia are typically performed at hospital emergency departments rather than other health care sites such as a physician's office, a clinic or campus health center.

### **Who conducts the forensic medical examination?**

The examination is conducted by a health care provider, ideally one who has specialized education and clinical experience in the treatment of sexual assault patients and the collection of forensic evidence.<sup>6,7</sup> As a part of post-exam duties when the criminal justice system is involved, this health care provider (henceforth referred to as an "examiner") may also be called on to interpret, analyze and present exam findings and provide factual and/or expert opinion related to the examination.<sup>8</sup>

Many health facilities use sexual assault nurse examiners (SANEs) to perform these examinations. SANEs are registered nurses with advanced education and clinical preparation in sexual assault forensic medical examinations. Many SANE programs utilize on-call nurses to provide around-the-clock coverage for one or more health facilities. When a victim of sexual assault seeks help at one of these facilities, the on-call SANE is contacted to perform the examination. The SANE typically begins the examination after the victim has been assessed and treated for serious injuries. Experienced SANEs provide compassionate care, expertise in identifying physical trauma and psychological needs, skill in coordinating care and referrals, and knowledge regarding how to document injuries and other forensic evidence. Thorough evidence collection and testimony by SANEs have helped prosecutors obtain increased numbers of guilty pleas from offenders and have increased the number of convictions.<sup>9</sup>

### **What other responders are involved during the forensic medical exam process? What are their roles?**

The term "exam process" is used to describe the coordinated intervention among first responders that occurs before, during and after the forensic medical examination.

In addition to the health care providers who conduct the exam, other local professionals can be involved in response to victims during the exam process. (Their roles are briefly summarized in the chart below). Together, they ensure that victims have access to immediate comprehensive care, work to minimize trauma, encourage the use of community resources, and facilitate case investigation (if a report is made)—all of which may lead to charges against suspects and subsequent prosecution.<sup>10</sup> Ensuring that victims are supported, their needs are met, their questions answered and their concerns addressed can facilitate their healing and may increase their level of comfort and involvement with the criminal justice system.

### **First Responders Commonly Involved in Sexual Assault Cases include:**

- **Health care providers** initially assess patients for acute medical needs and provide stabilization, treatment and/or consultation. Ideally, SANEs perform the forensic medical exam and post-exam activities as discussed above. Depending on victims' circumstances and needs, other health care personnel may be involved.

- **Sexual assault victim advocates** may be involved in the initial victim contact (via 24-hour hotline or a face-to-face meeting) to offer victim advocacy, support, crisis intervention (in conjunction with the examiner), and information and referrals before, during and after the exam process. They may facilitate transportation for victims to and from the exam site and provide replacement clothing if needed. They often provide comprehensive, longer-term services designed to aid victims in addressing needs related to the assault, including but not limited to emotional support and legal and medical systems' advocacy. Advocates can assist victims with disabilities in securing any needed accommodations throughout the service delivery system.
- **Law enforcement** (e.g., 911 dispatchers, patrol officers, officers who process crime scene evidence and investigators) respond to initial complaints, work to enhance victims' safety and arrange for victims' transportation to and from the exam site as needed. They interview victims. They ensure that forensic evidence is properly stored and transferred to the crime lab. They investigate cases—interview suspects and witnesses, request lab analyses, review medical/lab reports, prepare and execute search warrants, write reports and present cases to prosecutors.
- **Prosecutors** determine if there is sufficient evidence for prosecution and, if so, prosecute the case. They should be available to consult with first responders as needed. Prosecutors make the final determination whether to proceed with a criminal case. Victims still have the option of seeking criminal charges if additional evidence is later uncovered or in pursuing civil legal remedies.
- **Forensic scientist/crime lab personnel** analyze forensic evidence and provide results of the analyses to investigators/prosecutors. They may also testify in court regarding their analyses results.
- **Additional professionals or agencies** may be involved in immediate interventions and service provision, depending on the case, jurisdictional policies and the victims' needs.

For example, if victims with disabilities lack the capacity to consent, Adult Protective Services (APS) may be involved. If victims reside in a nursing home facility, and the assault occurred there, facility staff and a long-term care ombudsman may be involved. If victims require accommodations beyond what the health facility can provide, disability service agencies may be able to assist in securing accommodations. Mental health providers may be involved in the initial response if a psychological evaluation is needed.

Victims who attend institutions of higher education may have the recourse of seeking disciplinary charges. When that happens, members of the campus judiciary board review the case to decide if the institutional code of conduct has been violated and, if so, to determine sanctions. American Indian tribes may have their own codes related to sexual assault and/or processes through which victims can seek remedies, beyond what is available through state or federal prosecution.

Victims may secure civil attorneys to protect their interests, address concerns that affect their everyday lives and long-term well-being, represent them in civil legal matters and ensure their rights are upheld during the criminal justice process. Civil attorneys sometimes are consulted during the examination process.

Responders in the same service area usually have established methods to facilitate coordination among their agencies to immediately respond in sexual assault cases (e.g., for requesting examiners at health facilities, the use of on-site services of advocates, intervention by law enforcement, consultation with prosecution, etc.). If communities have sexual assault response teams (SARTs), the teams facilitate this coordination. (For more on facilitating coordination among agencies, see the modules in *Collaboration 101*.)

**FYI**—Service providers should know how to quickly connect victims with the appropriate responders in their communities, depending on the identified needs. The local rape crisis center is a good place to start to obtain this information. Of course, if there is a risk of imminent danger to victims or others, first call 911 for emergency assistance. The National Sexual Violence Hotline (1-800-656-HOPE) immediately connects callers with an available local rape crisis hotline. Other useful information for first responders to know:

- Is there a local SART? How is its response activated?
- What area health facilities perform sexual assault forensic medical exams? Is there a SANE program that serves the area and these facilities? What happens if victims present at facilities not equipped to do forensic medical exams?
- Can medical facilities accommodate victims with disabilities (specify the type of disability and accommodation needs)? If not, are there other options to accommodate these victims?
- Are advocates available to provide support and accompaniment before, during and after the examination?
- Do local law enforcement agencies have specially trained investigators that handle sexual assault cases? When do they get involved in cases?

**Regardless of their roles, the key principles below should underlie intervention by all responders to sexual assault victims** (adapted from *A National Protocol for Sexual Assault Medical Forensic Examination, Adult/Adolescent*):

- Victim safety and well-being are the paramount goals of response. (See *Sexual Violence 101. Safety Planning*.)
- Victims know far more about themselves and their needs than responders.
- Victims have the right to make their own choices and those choices must be respected. To make these choices, they need information about the resources available, their options, and the expected consequences of choosing one option over another. (See *Disabilities 101. Self-Advocacy and Victims with Disabilities*.)
- All victims deserve a high-quality forensic medical exam and to be treated with respect and compassion.
- The right to confidentiality must be respected unless victims are a danger to themselves or others or in mandatory reporting situations. (See *Sexual Violence 101. Confidentiality and Sexual Violence 101. Mandatory Reporting*.)
- Sexual assaults committed by persons known to victims are as serious a crime as those committed by strangers.

## What happens during the forensic medical exam process?

The following is a very brief overview of what happens during the exam process (see the resources listed on B11.2 of this module for more detailed information). When explaining this process to victims, provide them with opportunities to ask questions or raise related concerns. Help them identify their options for getting their questions answered and their concerns addressed.

**FYI**—Responders should follow jurisdictional and agency policies regarding maintaining their own safety and the safety of others during the forensic medical exam process.

## Exam Process Components

### Initial contact

A victim's point of entry into the service delivery system often is through initial contact with law enforcement, an advocacy agency or other service organization. A victim may also present at a health facility. First responders play a critical role in:

- Assessing and addressing emergency medical assistance, safety and support needs of the victim;
- Explaining to the victim the importance of medical care and evidence collection;
- Coordinating transportation for the victim to the medical facility;
- Explaining to the victim how to preserve bodily evidence until it can be collected at the exam facility (e.g., do not wash, change clothes, urinate, defecate, smoke, drink, eat, brush hair or teeth, or rinse mouth);
- Explaining in the case of a suspected drug/alcohol facilitated sexual assault, that if the victim cannot wait to urinate until arrival at the medical facility, she should collect/bring a sample to the facility (the sooner a urine specimen is obtained after the assault, the greater the chances of detecting substances that are quickly eliminated from the body<sup>11</sup>); and
- Explaining to the victim that clothing may be taken as evidence—she may wish to arrange to have a change of clothes at the medical facility. (In some facilities replacement clothing may be available.)

### Triage and intake

Health care providers do the following, based on facility and jurisdictional policies:

- Give sexual assault cases priority medical care;
- Respond to acute injury, trauma care and safety needs before evidence is collected;
- **With victim consent**, alert other responders of the need for their services—
  - o An examiner to conduct the forensic medical exam;
  - o An advocate to provide support, crisis intervention and advocacy;
  - o A law enforcement officer to take a report, offer protection and begin the investigation;

and

- In a mandatory reporting situation, the assault should be reported to APS or Child Protective Services (CPS) and/or law enforcement. However, the examination cannot be done against the patient's will. It is also the victim's choice whether she wants advocacy services.

### **Forensic medical history**

As outlined in the *WV Sex Crime Collection Kit*, medical facilities that conduct these exams must use this kit or one that contains all of the items in this kit. The forensic medical history is different from the investigative interview conducted by law enforcement if there is a report. The investigative interview often occurs at the medical facility at the conclusion of the examination.

The examiner seeks the following information, based on jurisdictional policies:

- Date and time of the assault/examination;
- Offender information (if known);
- Assault-related history, including possible involvement of drugs/alcohol;
- Post-assault activities of the victim;
- Pertinent medical history, including, for women, contraceptive/menstruation information and gynecological history; and
- Recent consensual sexual activity.

### **The examination**

The examiner does the following, based on jurisdictional policies:

- Conducts the general physical exam;
- Conducts the anogenital exam; and
- Documents findings using written notes, anatomical drawings and/or photography as appropriate.

### **Evidence collection**

Many variables affect the relevance of certain types of evidence in a particular case, including whether an assault was committed by a stranger, a known offender who claims no sexual contact with the victim, or a known offender who claims the victim consented to the contact. All evidence available is important, not just DNA evidence.

The examiner collects the following, as relevant to each case and based on jurisdictional policies:

- Clothing evidence;
- Debris (e.g., dirt, leaves, fibers, hair, fingernail swabs);
- Foreign materials and swabs (e.g., bite marks) from the surface of the body;

- Hair combings;
- Hair reference samples as needed;
- Oral and anogenital swabs and smears;
- Known blood or saliva sample or buccal swab for DNA analysis and comparison;
- Toxicology samples as needed; and
- Documentation of evidence as needed.

### **Related medical concerns**

While the risk of pregnancy, sexually transmitted infection and HIV/AIDs from a sexual assault is low, these are major concerns for victims.

The examiner does the following, based on facility and jurisdictional policies and as relevant to the victim's age and gender:

- Informs the victim of the risk of pregnancy and sexually transmitted infections, testing for HIV/AIDs, and prophylactic steps to avoid pregnancy and infection;
- Provides testing/prophylactic care as needed; and
- Provides referrals for related follow-up health services.

### **Discharge and follow-up instructions**

The examiner does the following, based on facility and jurisdictional policies:

- Provides the victim with the opportunity/supplies to wash, change clothes (providing replacement clothing if necessary) and get food/beverages;
- Informs the victim about post-exam care (information may include referrals to address health needs related to the assault, discharge instructions, follow-up appointments with the examiner or other health providers, and contact procedures for medical follow-up and documentation of developing/healing injuries and resolution of healing); and
- Coordinates with advocates, law enforcement and other involved professionals to discuss other issues with the victim, including safety planning, comfort needs, informational needs, the investigative process, advocacy and counseling options and follow-up contact procedures.

**FYI**—The forensic medical examination is an invasive and personal procedure. The health care professional conducting the exam should ask the victim if she would like to have an advocate with her, whose only role is to provide support and comfort to the victim.<sup>12</sup> Extreme care should be taken to ensure that someone who may be the perpetrator (family member, caregiver, guardian, etc.) is not in the room. Under no circumstances should law enforcement or other first responders be in the examining room and under no circumstances should anyone other than health care personnel take photographs of victims' genital areas.

## **What can responders do to make the exam process more comfortable for persons with disabilities?**<sup>13</sup>

(See *Disabilities 101. Tips for Communicating with Persons with Disabilities*; *Disabilities 101. Accommodating Persons with Disabilities*; *Disabilities 101. Guardianship and Conservatorship*; *Disabilities 101. Working with Victims with Mental Illnesses and Disabilities 101. Self-Advocacy and Victims with Disabilities*. Also see *Sexual Violence 101. Sexual Victimization of Persons with Disabilities: Prevalence and Risk Factors*; *Sexual Violence 101. Mandatory Reporting and Sexual Violence 101. Safety Planning*.)

- *Understand that victims may have physical, sensory, cognitive, developmental or mental health disabilities or multiple disabilities.* Make every effort to recognize issues that could potentially arise during the exam process for victims with disabilities (both in general and in relation to their specific disability) and provide reasonable accommodations upon request.
- *Be aware that the risk of criminal victimization, including sexual assault, for people with disabilities is much higher than for people without disabilities.* People with disabilities are often victimized repeatedly by the same offender.<sup>14</sup> Caretakers, family members or acquaintances may be responsible for the sexual assault. In such a case, the offender may be the person transporting the victim to the medical facility. Jurisdictional and medical facilities' policies should be in place to provide guidance on how staff should screen for and handle situations that are potentially threatening to patients or facility personnel.
- *Speak directly to victims,* even when interpreters, intermediaries or guardians are present.
- *Respect victims' wishes to have or not have caregivers, family members or friends present during the exam.* Although these individuals may be accustomed to speaking on behalf of persons with disabilities, it is critical that they do not influence victims' statements during the exam process. If aid is required (e.g., from interpreters), do so only with the victims' consent.
- *Follow medical facility and jurisdictional policy for assessing the ability of adults considered by West Virginia law to be "incapacitated" to consent to the examination, evidence collection and involving protective services.* Keep in mind that the inability to consent could be temporary (e.g., due to substance use, a psychotic episode or onset of an illness such as high fever or a stroke) and victims may at some point be able to make their own decisions. Again, note that guardians could be offenders—if sexual violence by a guardian is suspected, protective services needs to be contacted.
- *Assess victims' needs for assistance during the exam process.* Explain the exam procedures to victims and ask what accommodations they require, if any (e.g., people with certain physical disabilities may need help to get on and off the exam table, may need to be positioned differently for the exam, or may need an alternative to the exam table entirely). Do not assume, however, that they will need special assistance. Also, ask for permission before proceeding to help them (or touch them or their service animals or handle their mobility or communication devices).
- *Ask victims to specify their preferred method of communication. Do not make assumptions.* Preferences and capacity can vary widely. For example, not all individuals who are deaf or hard-of-hearing understand sign language or can read lips. Not all blind persons can read Braille. Communication equipment that may be beneficial to victims with sensory and

communication disabilities include TTY machines, word boards, speech synthesizers, anatomically correct dolls, materials in alternate formats and access to interpreter services. Responders should familiarize themselves with the basics of communicating with individuals using such devices. Some victims with communication disabilities may prefer communicating through an intermediary who is familiar with their speech patterns.

- *Recognize that individuals may have some type of cognitive disability (for example, an intellectual disability, traumatic brain injury, neurodegenerative condition such as Alzheimer's disease, or stroke).* Speak to these individuals in a clear and calm voice and ask very specific and concrete questions. Be exact when explaining what will happen during the exam process and why. Be aware that some victims with cognitive disabilities may be easily distracted and have difficulty focusing. To reduce distractions, conduct the exam in an area that has no bright lights or loud noises. It may also be helpful if examiners and others present in the exam room refrain from wearing jewelry or uniforms with ornamental designs.
- *Recognize that in cases where victims cannot verbalize what happened to them during the assault, evidence collected during the forensic medical exam may be especially crucial to the investigation.*
- *Keep in mind that victims with disabilities may be reluctant to report the crime or consent to the examination for a variety of reasons, including fear of not being believed, fear of getting in trouble and fear of losing their independence.* For example, they may need extended treatment for their injuries. The perpetrator may be their caregiver and the only person they rely on for daily living assistance; reporting the assault may force them into a long-term care facility.
- *Recognize that it may be the first time victims have an anogenital exam.* The procedure should be explained in detail in language they can understand.<sup>15</sup> They may have limited knowledge of reproductive health issues and not be able to describe what happened to them during the sexual assault. They may not know how they feel about the incident or even identify that a crime was committed against them.
- *Some victims with disabilities may want to talk about their perceptions of the role their disability might have played in making them vulnerable to an assault.* Listen to their concerns and what the experience was like for them.<sup>16</sup> Assure them that the assault was not their fault. If needed, encourage discussion in a counseling setting on this issue, as well as on what might help them feel safer in the future.
- *Recognize that the examination may take longer to perform with victims with certain types of disabilities.* Examiners should avoid rushing through the examination—such action not only may distress victims, it can lead to missed evidence and information.

### **How long after an assault can the forensic medical exam be conducted and evidence collected?**

**FYI**—In general, the West Virginia State Police Forensic Lab indicates that 96 hours post-assault is the outside limit for conducting a forensic medical examination using the state Sex Crime Collection Kit.

Prompt examination following a sexual assault helps to quickly identify victims' medical needs

and concerns. Evidence can be lost from the body and clothing through washing hands, bathing, brushing teeth, urinating, etc. Therefore the less time between the assault and the forensic medical exam, the more likely that evidence may be collected. With that said, however, *recognize that evidence may be found on victims' bodies even in cases where the disclosure of a recent sexual assault is delayed.* For example, signs of bruising or vaginal/anal tearing might be present past the 96-hour suggested evidence collection time period. Even when delayed disclosures are made, first responders may encourage victims to seek forensic medical care in some situations. Examiners can obtain the forensic medical history, examine victims and document findings if victims are willing and evidence is potentially present. The history and documentation of exam findings can aid examiners in addressing any related medical issues and determining if and where there may be evidence to collect. Law enforcement can also interview victims to get an account of the assault, identify potential suspects and witnesses and find out if other evidence might be available (at the crime scene, suspect's home, victim's home, in a vehicle, etc.).

### **What if a victim is undecided about whether she wants to report the sexual assault? Should she still have forensic evidence collected?**

Adult victims of a recent sexual assault can have the forensic medical exam conducted within 96 hours of the assault, whether or not they choose to report to law enforcement. If victims are children or are adults considered by West Virginia law to be “incapacitated,” these crimes will be reported to the West Virginia Department of Health and Human Resources and law enforcement by health care providers. (See *Sexual Violence 101. Mandatory Reporting.*) Kits collected as part of investigations will be sent to the West Virginia State Police Forensic Lab for processing. Kits collected as non-reports are sent to Marshall University Forensic Science Center, where the collected evidence can be stored for up to 18 months, allowing the victim time to make a decision regarding reporting the sexual violence. Should the decision be made to initiate an investigation in a non-reported case, the kit can be retrieved at any time within the 18 months by contacting law enforcement and providing the kit tracking number. There is no statute of limitations on reporting a sexual assault in West Virginia, but there is an 18 month limit on the storage of the Sex Crime Collection Kits.

### **Who pays for the forensic medical examination?**

Victims are often concerned about how the costs of the examination will be covered. The West Virginia Forensic Medical Examination Fund was established by the state legislature (*WVC§61-8B-16*) to pay for “all reasonable and customary costs of a forensic medical examination.” For the medical facility and examiner to be paid for through this fund, the exam must be done within 96 hours of the assault. No payment from the fund is provided for non-forensic procedures or treatment—therefore, victims will most likely be responsible for any medical treatment, either through private pay or private insurance. Victims who report the assault to law enforcement within 72 hours (unless just cause exists) can apply to the West Virginia Crime Victims Compensation Fund for reimbursement of out-of-pocket medical costs. Rape crisis center advocates can assist victims in applying for these funds. (See *Sexual Violence 101. West Virginia Crime Victims Compensation Fund.*)

### **What are victims' options if the sexual assault was not recent?**

Service providers should always validate victims' decisions to seek help to heal regardless of

when they disclose sexual violence—whether it is hours, days, months, years or even decades later. If the sexual assault was not recent, victims can still access medical care, advocacy and other services to help them recover. They can report the crime to law enforcement. They can discuss with service providers the possibility of other existing evidence that could corroborate their account of the sexual assault.

### **Test Your Knowledge**

*Refer to the pages in this module as indicated to find the answer to each question.*

1. What is a forensic medical exam? *See page B11.3.*
2. How does a forensic medical exam differ from a medical exam? *See pages B11.3–B11.4.*
3. Where does a forensic medical exam typically take place? *See page B11.4.*
4. Who conducts a forensic medical exam? *See page B11.4.*
5. What is a SANE? *See page B11.4.*
6. What other responders are involved in the forensic medical exam process? What are their roles? *See pages B11.4–B11.5.*
7. How would you briefly describe components of the forensic medical exam to a victim? *See pages B11.7–B11.9.*
8. What can responders do to make the forensic medical exam more comfortable for victims with disabilities? *See pages B11.10–B11.11.*
9. How long after a sexual assault can a forensic medical exam be done? *See pages B11.11–B11.12.*
10. If victims wish to have the forensic medical exam done but are undecided about reporting to law enforcement, what is the process for storing the kits? *See page B11.12.*

Project partners welcome the non-commercial use of this module to increase knowledge about serving sexual violence victims with disabilities in any community, and adaptation for use in other states and communities as needed, without the need for permission. We do request that any material used from this module be credited to the West Virginia Sexual Assault Free Environment (WV S.A.F.E.) project, a partnership of the West Virginia Foundation for Rape Information and Services, the Northern West Virginia Center for Independent Living and the West Virginia Department of Health and Human Resources (2010). Questions about the project should be directed to the West Virginia Foundation for Rape Information and Services at [www.fris.org](http://www.fris.org).

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<sup>1</sup>Partnering agencies refer to the persons they serve as “clients,” “consumers” and “victims.” Health care providers refer to the persons they serve as “patients.” For convenience, the term “victims” is primarily used in this module. Also note that the terms “sexual violence” and “sexual assault” are generally used in this module to encompass sexual assault, sexual abuse and other forms of sexual violence.

<sup>2</sup>This and other online documents referenced in this module were available at the links provided at the time the module was written. It is suggested you check the sites for any updates or changes. If you experience difficulty accessing the documents via the links, another option for locating documents is doing a web search using titles.

<sup>3</sup>U.S. Department of Justice, *A national protocol for sexual assault medical forensic examination, adult/adolescent* (Washington, D.C., 2004), 30-2, through <http://samfe.dna.gov>.

<sup>4</sup>The list of problems cited in the text box on this page is from K. Littel, *Implementing SANE programs in rural communities: The West Virginia regional mobile SANE project*, *OVC E-Bulletin* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, 2008), [http://www.ovc.gov/publications/infores/WVA\\_Mobile\\_SANE\\_guide/welcome.html](http://www.ovc.gov/publications/infores/WVA_Mobile_SANE_guide/welcome.html). Originally drawn from R. Campbell, *The effectiveness of SANE programs*, VAWnet Applied Research Forum (National Online Resource Center on Violence Against Women, 2004), 1; and K. Littel, *SANE programs: Improving the community response to sexual assault victims*, *OVC Bulletin* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, 2001), 1–2.

<sup>5</sup>Drawn from U.S. Department of Justice, *A national protocol*, 13.

<sup>6</sup>Drawn from U.S. Department of Justice, *A national protocol*, 24.

<sup>7</sup>Examples of terms used to describe medical professionals who are specially trained and clinically prepared to perform forensic medical examinations include sexual assault nurse examiner (SANE), forensic nurse examiner (FNE), sexual assault forensic examiner (SAFE) and sexual assault examiner (SAE). Drawn from U.S. Department of Justice, *A national protocol*, 53.

<sup>8</sup>Drawn from U.S. Department of Justice, *A national protocol*, 24.

<sup>9</sup>Paragraph from Littel, *Implementing SANE programs in rural communities: The West Virginia regional mobile SANE project*. Originally drawn in part from N. Hoffman & D. Lopez-Bonasso, West Virginia goes SANE (unpublished article).

<sup>10</sup>Adapted from U.S. Department of Justice, *A national protocol*, 23.

<sup>11</sup>Drawn from U.S. Department of Justice, *A national protocol*, 103. As cited in M. LeBeau, Toxicological investigations of drug-facilitated sexual assaults, *Forensic Science Communication* (1999), 3.

<sup>12</sup>Although males and females are both victimized by sexual violence, most reported and unreported cases are females (see the endnotes in the *Toolkit User's Guide* for a full citation). Therefore, in this module, victims are often referred to as female.

<sup>13</sup>Bullets drawn from U.S. Department of Justice, *A national protocol*, 30-2.

<sup>14</sup>The first two sentences in this paragraph were drawn from the Office for Victims of Crime, *First response to victims of crime who have a disability* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, 2002), 1.

<sup>15</sup>Drawn from A. Conrad, *SANE/SAFE organizing manual* (Albany, NY: New York State Coalition Against Sexual Assault, 1998), 7.

<sup>16</sup>Drawn from L. Ledray, *SANE development and operation guide* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, 1998), 82–5.