Minnesota Guide to Sexual Assault Investigations

Minnesota
BCA
Bureau of Criminal Apprehension

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Preface

Sexual assault is a devastating crime that can result in immense emotional, physical and psychological challenges for victims. Perhaps not surprisingly, it is also considered one of the most underreported crimes.

As members of Minnesota's law enforcement community, you stand at the forefront of providing justice, accountability and, importantly, compassionate support to those affected.

This Minnesota Guide to Sexual Assault Investigations serves as a statewide resource designed to equip law enforcement with the tools, knowledge and skills necessary to navigate sexual assault investigations with sensitivity, accuracy and professionalism. It contains insights into trauma experienced by victims, best practices for effective and thorough investigations and strategies for building trust within communities. In addition, this guide contains best practices for interacting with victims and fostering a culture that prioritizes respect and empowerment.

The recommendations contained in this guide are not mandatory but are offered to support consistent and quality sexual assault investigations across Minnesota.

The Minnesota Guide to Sexual Assault Investigations was developed with federal grant funding. The Minnesota Department of Public Safety (DPS) received a Bureau of Justice Assistance Sexual Assault Kit Initiative (SAKI) Grant through the DPS Office of Justice Programs (Award Nos. 2018-AK-BX-0019, 2019-AK-BX-0018 and 2020-AK-BX-0008).

The Minnesota SAKI grant is intended to improve law enforcement response to sexual assault through a victim-centered approach. Key objectives of this effort include the following:

- Reducing the number of unsubmitted sexual assault kits
- Enhancing victim services
- Delivering training on best practices
- Supporting thorough investigation and prosecution of sexual assault cases

Definition of terms

Definitions given below apply to the words used in this guide. They may have different meanings in other contexts.

Victim — individuals who disclose or report criminal sexual conduct (CSC). Other professions may use different terminology; for example, healthcare professionals often use "patients," while victim advocates and social service providers may refer to them as "survivors" or "clients."

Investigator — sworn law enforcement personnel responsible for conducting sexual assault investigations. Investigators may hold other agency-specific titles such as officers, detectives, deputies or troopers.

Suspect/Actor — the person accused of sexual assault. More generally, "perpetrators" or "assailants" are used to refer to those who commit sexual assault. Health care providers who conduct forensic examinations of suspects may refer to them as "patients."

Forensic nurse examiner (FNE) — trained nurses who provide care and evidence collection for victims of sexual assault. Outside of this document, FNEs are also referred to as a Sexual Assault Nurse Examiners (SANE).

Acknowledgments

The Minnesota Guide to Sexual Assault Investigations was developed in partnership with the following agencies and organizations.

- Minnesota Bureau of Criminal Apprehension
- St. Paul Police Department
- Hennepin County Attorney's Office
- Ramsey County Attorney's Office
- Central Minnesota Child Advocacy Center
- Midwest Children's Resource Center
- Allina Forensic Nursing Program
- Hennepin Assault Response Team, Hennepin Healthcare
- Regions SANE Program
- Sexual Violence Center
- Ramsey County SOS Sexual Violence Services

Chapter 1: Statutes and legal definitions

The primary function of a law enforcement officer is to gather facts and evidence to establish whether a crime has been committed. An effective officer is knowledgeable in the laws they are entrusted to enforce and does so without prejudice or bias. Information provided below about Minnesota laws that govern criminal sexual conduct is provided to aid in understanding and navigating Minnesota sexual conduct definitions and the different degrees at which an individual can be charged.

Overview of Minnesota criminal sexual conduct statutes 609.342 – 609.3451

- 1st degree (Minn. Stat. § 609.342) and 3rd degree (Minn. Stat. § 609.344) involve penetration.
- 1st degree also includes sexual contact when the victim is under age 14. Sexual contact, committed with sexual or aggressive intent, involves intentionally touching the victim's bare genitals or anal opening, or the touching by the victim's bare genitals or anal opening of the actor's (or another's) bare genitals or anal opening.
- 2nd degree (Minn. Stat. § 609.343) and 4th degree (Minn. Stat. § 609.345) involve "sexual contact."
- 5th degree (Minn. Stat. § 609.3451) is typically used when evidence of coercion or force is insufficient. It includes:
    - Nonconsensual penetration (felony)
    - Nonconsensual sexual contact (gross misdemeanor)
    - Lewd masturbation in front of child under 16 (gross misdemeanor) or in an area where children are known to be present.
    - The gross misdemeanor counts can be enhanced to felonies with certain prior convictions. Please refer to the Minn. Stat. § 609.3451, subd. 3(b) and (c) for specifics.

Definitions for Minn. Stat. § 609.341

Not all definitions are provided below. Please see statutes for further information.

FORCE — Minn. Stat. § 609.341, Subd. 3

1. The infliction by the actor of bodily harm; or
2. Attempted infliction or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the victim or another, which causes the victim to reasonably believe the actor has the present ability to execute the threat.

CONSENT — Minn. Stat. § 609.341, Subd. 4

a. Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.
b. A person who is mentally incapacitated or physically helpless (see below) cannot consent to a sexual act.
c. Corroboration of the victim's testimony is not required to show lack of consent.

INTIMATE PARTS — Minn. Stat. § 609.341, Subd. 5
Primary genital area, groin, inner thigh, buttocks or breasts.

MENTALLY IMPAIRED — Minn. Stat. § 609.341, Subd. 6
A person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to sexual contact or penetration.

MENTALLY INCAPACITATED — Minn. Stat. § 609.341, Subd. 7
1. A person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.
2. A person is under the influence of any substance or substances to a degree that renders them incapable of consenting or incapable of appreciating, understanding or controlling the person's conduct.

PERSONAL INJURY — Minn. Stat. § 609.341, Subd. 8
Bodily harm, severe mental anguish or pregnancy. Bodily harm means physical pain or injury, illness or any impairment of a physical condition.

PHYSICALLY HELPLESS — Minn. Stat. § 609.341, Subd. 9
a. Asleep or not conscious.
b. Unable to withhold consent or to withdraw consent because of a physical condition, or:
c. Unable to communicate non-consent and the condition is known or reasonably should have been known to the actor.

CURRENT OR RECENT POSITION OF AUTHORITY — Minn. Stat. § 609.341, Subd. 10
- A parent or person acting as a parent or in place of a parent and charged with or assumes a parent's rights, duties or responsibilities to a child.
- A person who is charged with or assumes a duty or responsibility for the health, welfare or supervision of a child, either independently or through another.
- No matter how brief, at the time of or within 120 days immediately preceding the act.
- Includes a psychotherapist (see definition below), and other professionals (see prohibited occupational relationships definition below).

SEXUAL CONTACT — Minn. Stat. § 609.341, Subd. 11
i. The intentional touching by the actor of the victim's intimate parts, or
ii. The touching by the victim or the actor's, victim's, or another's intimate parts effected by a person in a current or recent position of authority, or by coercion, or by inducement if the victim is under age 14 or mentally impaired; or

iii. The touching of another of the victim's intimate parts effected by coercion or by a person in a current or recent position of authority; or
iv. In any of the above cases, the touching of the clothing covering the immediate areas of the intimate parts; or
v. The intentional touching with seminal fluid or sperm by the suspect of the victim's body or clothing covering the victim's body.

When the suspect is in a **significant relationship** with the victim, sexual contact includes:

- Intentional touching of the intimate parts by the actor of the victim, the victim of the suspect, or another.
- Intentional touching of the clothing covering the immediate area of the intimate parts, or
- Intentional touching with seminal fluid or sperm by the actor of the victim's body or the clothing covering the victim's body.

When the **victim is under age 14**, sexual contact means the intentional touching of the victim's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent, or the touching by the victim's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

SEXUAL PENETRATION — Minn. Stat. § 609.341, Subd. 12
Any of the following acts committed without the victim's consent, except where consent is not a defense, whether or not emission of semen occurs:

1. Sexual intercourse, cunnilingus, fellatio, or anal intercourse; or
2. Any intrusion however slight into the genital or anal openings
    i. Of the victim's body by any part of the actor's body or any object used by the actor for this purpose
    ii. Of the victim's body by any part of the body of the victim or any part of the body of another, or by an object used by the complainant or another for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under age 14 or mentally impaired; or
    iii. Of the body of the actor or another person by any part of the body of the victim or by an object used by the victim for this purpose, when effected by a person in a current or recent position of authority, or by coercion, or by inducement if the child is under age 14 or mentally impaired.

Note: Proof that the actor intruded into the victim's vaginal canal is not required. Touching of the vulva (the outer part of the female genitalia) by spreading of the labia (the outer lips and/or inner lips of the external female genitalia) equates to "penetration."

COERCION — Minn. Stat. § 609.341, Subd. 14
The use by the actor of words or circumstances that cause the victim reasonably to fear the infliction of bodily harm upon the victim or another, or the use by the actor of confinement, superior size or strength, against the complainant to accomplish the act.

Note: Proof of coercion does not require proof of a specific act or threat.

SIGNIFICANT RELATIONSHIP — Minn. Stat. § 609.341, Subd. 15
1. Victim's parent, stepparent or guardian;

2. Any of the following related to the victim by blood, marriage or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle or great-aunt;
3. An adult who jointly resides intermittently or regularly in the same dwelling as victim and who is not the complainant's spouse; or
4. An adult who is or was involved in a significant romantic or sexual relationship with the parent of the victim.

PSYCHOTHERAPIST — Minn. Stat. § 609.341, Subd. 17
A person who is or purports to be a physician, psychologist, nurse, physician assistant, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

PSYCHOTHERAPY — Minn. Stat. § 609.341, Subd. 18
The professional treatment, assessment, or counseling of a mental or emotional illness, symptoms or conditions.

EMOTIONALLY DEPENDENT — Minn. Stat. § 609.341, Subd. 19
The nature of the former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

PROHIBITED OCCUPATIONAL RELATIONSHIP — Minn. Stat. § 609.341, Subd. 24
The information provided here is an overview, please see subdivision 24 for precise language.

1. Masseuse or person who does body work for hire. Sexual contact or penetration must be immediately before, during or after session and nonconsensual.
2. Actor and victim were in one of the following occupational relationships at the time of the act (consent is not a defense):
    i. Psychotherapist/patient (during session or during term of professional relationship).
    ii. Psychotherapist/former patient (victim still emotionally dependent).
    iii. Actor falsely impersonated a psychotherapist or patient (act occurred by means of therapeutic deception).
    iv. Actor falsely impersonated a medical services provider (act occurred by means of deception or false representation that penetration/contact was for a bona fide medical purpose).
    v. Clergy member, or falsely impersonating clergy member, not married to victim, met in private with victim seeking or receiving religious or spiritual advice, aid or comfort from the actor and contact/penetration occurred.
    vi. Actor provided special transportation services to victim and contact/penetration occurred during, immediately before or after transport.
    vii. Actor was or falsely impersonating a peace officer, actor physically or constructively restrained the victim or victim didn't reasonably feel able to leave and the sexual penetration/contact was not pursuant to a lawful search or use of force.

viii. Actor was employee, contractor or volunteer of a state, county, city or privately operated adult or juvenile correctional system, secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous person, or sexual psychopathic personalities and victim was a resident or under supervision of the correctional system.

ix. Victim was enrolled in a secondary school and:
   A. Actor was a licensed educator employed or contracted to provide services for the school at which the victim was a student;
   B. Actor was age 18 or older and at least 48 months older than the student and was employed or contracted to provide service for the secondary school at which the victim was a student; or
   C. Actor was age 18 or older and at least 48 months older than the victim and was a licensed educator employed or contracted to provide services for an elementary, middle or secondary school.

x. Actor was a caregiver, facility staff person, or person providing services in a facility, and the victim was a vulnerable adult who was a resident, patient, or client of the facility who was impaired in judgment or capacity by mental or emotional dysfunction or undue influence.

xi. Actor was a caregiver, facility staff person, or person providing services in a facility, and the victim was a resident, patient or client of the facility. This does not include cases where there was a consensual sexual personal relationship that existed prior to the caregiving relationship or cases where the actor is a personal care attendant.

VULNERABLE ADULT — Minn. Stat. § 609.341, Subd. 27 **(**As defined by Minn. Stat. § 626.232)

1. Receives services at or from a facility required to be licensed to serve adults under Minn. Stat. §§ 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under Minn. Stat. Chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause [4];
2. Receives services from a home care provider required to be licensed under Minn. Stat. §§ 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under Minn. Stat. §§ 256B.0625, Subds. 19a, 256B.0651 to 256B.0654, and 256B.0659; or
3. Regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
   i. That impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
   ii. Because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

Other definitions of note

AGE OF CONSENT in Minnesota is 16.
Exceptions:

1. Significant relationship exists between victim and actor.
2. Actor is in a position of authority over victim.
3. Actor is in a prohibited occupational relationship.

CHILD OR MINOR
A person under the age of 18.

FAMILY AND HOUSEHOLD MEMBER — Minn. Stat. § 518B.01, Subd. 2b defines Family or Household Members as:

1. Spouses and former spouses.
2. Parents and children.
3. Persons related by blood.
4. Persons who are presently residing together or who have resided together in the past.
5. Persons who have a child in common regardless of whether they have been married or have lived together at any time.
6. A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.
7. Persons involved in a significant romantic or sexual relationship. Considerations for a "significant romantic or sexual relationship" include the length of time of the relationship, type of relationship, frequency of interaction between the parties and, if the relationship has terminated, length of time since termination.

Miscellaneous laws and considerations

RAPE SHIELD LAW— Minn. Stat. § 609.347
Protects the privacy of the victim's prior sexual conduct unless it bears directly on the facts/defenses of the current case. It does not apply when consent is the defense, injury or pregnancy could be the result of other sexual partner(s), or the victim has prior verified false reports of sexual assault.

HIV TESTING — Minn. Stat. § 611A.19
Upon the request or consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated of criminal sexual conduct in the first, second, third, and fourth degrees, sexual extortion, or violent crime to submit to testing to determine the presence of the human immunodeficiency virus (HIV) antibody if the crime involved sexual penetration or where evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner that has been demonstrated epidemiologically to transmit HIV.

LAW ENFORCEMENT; REPORTS OF SEXUAL ASSAULT — Minn. Stat § 609.3459
A victim of any violation of sections 609.342 to 609.34453 may initiate a law enforcement investigation by contacting **ANY** law enforcement agency, regardless of where the crime may

have occurred. The agency must prepare a summary of the allegations and provide the person with a copy of it. The agency must begin an investigation of the facts or, if the suspected crime was committed in a different jurisdiction, refer the matter along with the summary to the law enforcement agency where the suspected crime was committed for an investigation of the facts.

PRISION RAPE ELIMINATION ACT (PREA) — www.prearesourcecenter.org
PREA is a federal law (42 U.S.C. 15602(1) [now 34 U.S.C. 30301(1)) that aims to deter the sexual assault of prisoners.

> Zero Tolerance Policy: Sexual conduct between inmates and staff, volunteers, or contract personnel, regardless of consensual status, is prohibited and subject to appropriate personnel action up to and including termination and potential criminal prosecution.

POLYGRAPH — Minn. Stat. § 611A.26
Subd. 1. Polygraph prohibition — No law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging, or prosecution of such offense.

Subd. 2. Law enforcement inquiry — A law enforcement agency or prosecutor may not ask that a complainant of a criminal sexual conduct offense submit to a polygraph examination as part of the investigation, charging, or prosecution of such offense unless the complainant has been referred to, and had the opportunity to exercise the option of consulting with a sexual assault counselor as defined in section 595.02, subdivision 1, paragraph (k).

Subd. 3. Informed consent requirement — At the request of the complainant, a law enforcement agency may conduct a polygraph examination of the complainant only with the complainant's written, informed consent as provided in this subdivision.

Subd. 4. Informed consent — To consent to a polygraph, a complainant must be informed in writing that:

1. The taking of the polygraph examination is voluntary and solely at the victim's request;
2. A law enforcement agency or prosecutor may not ask or require that the complainant submit to a polygraph examination;
3. The results of the examination are not admissible in court; and
4. The complainant's refusal to take a polygraph examination may not be used as a basis by the law enforcement agency or prosecutor not to investigate, charge, or prosecute the offender.

Subd. 5. Polygraph refusal — A complainant's refusal to submit to a polygraph examination shall not prevent the investigation, charging, or prosecution of the offense.

Statute of limitations

A general overview is provided, however, cases involving delayed reporting can be extremely complicated. Tolling provisions may apply in cases where an offender was not an inhabitant or usual resident of Minnesota. Agencies are encouraged to reach out to a prosecutor for advice on a specific set of circumstances. Minn. Stat. § 628.26.

Effective Date	Statute of Limitations	Comments
Aug. 1, 2023	No Statute of Limitations for CSC 1st – 4th or sexual extortion. 3 years for CSC 5.	Applies to crimes committed on or after Aug. 1, 2023 AND to crimes committed before that date IF the limitations period did not expire before Aug. 1, 2023.
Sept. 15, 2021	No statute of limitations for CSC 1st – 4th or sexual extortion (regardless of the presence of DNA). 3 years for CSC 5.	Applies to violations committed on or after Sept. 15, 2021. Cases committed before that date must use the 2016 statute of limitations version.
Aug. 1, 2016	If no DNA: • Adult: 9 years from offense. • Under 18: 9 years from offense or 3 years after report to law enforcement, whichever is later. No statute of limitations if DNA is collected/preserved/capable of being tested. 3 years for CSC 5.	Effectiveness language modified allowing all CSC and Sex Trafficking cases that had not yet expired to use the 2016 version.
Aug. 1, 2015	If no DNA: • Adult: 9 years from offense. • Under 18: 9 years from offense or 3 years after report to law enforcement, whichever is later. No statute of limitations if DNA is collected/preserved/capable of being tested. 3 years for CSC 5.	Effectiveness language added allowing all CSC and Sex Trafficking cases that had not yet expired to use the 2015 version. Sex Trafficking added to the CSC statutes of limitation.
Aug. 1, 2009	If no DNA: • Adult: 9 years from offense. • Under 18: 9 years from offense or 3 years after report to law enforcement, whichever is later. No statute of limitations if DNA is collected/preserved/capable of being tested. 3 years for CSC 5.	

Effective Date	Statute of Limitations	Comments
Aug. 1, 2000	No Statute of Limitations if DNA is collected/preserved/capable of being tested If no DNA: Adult: 9 years from offense Under 18: 9 years from offense or 3 years after report to law enforcement 3 years for CSC 5	If the case was reported to law enforcement within the 9 year limitations period, the 3 year timeline begins to run from the date of report.
Pre-Aug. 1, 2000	Absent evidence supporting tolling, statute of limitations has expired.	Contact your prosecutor if there is evidence the suspect was not an inhabitant of, or usually a resident within, Minnesota.

Other crimes to consider

- Nonconsensual Dissemination of Private Sexual Images, Minn. Stat. § 617.261.
- Possession (and Dissemination) of Pornographic Work Involving Minors, Minn. Stat. § 617.247.
- Use of a Minor in a Sexual Performance, Minn. Stat. § 617.246 (for victims under 18).
- Solicitation of a Child to Engage in Sexual Conduct/Communication of Sexually Explicit Materials to Children, Minn. Stat. § 609.352 (for victims under 16).
- Threats of Violence, Minn. Stat. § 609.713.
- Kidnapping, Minn. Stat. § 609.52.
- False Imprisonment, Minn. Stat. § 609.255.
- Indecent Exposure, Minn. Stat. § 617.23.
- Sexual Extortion, Minn. Stat. § 609.3458.
- Harassment & Stalking, Minn. Stat. § 609.749.
- Coercion, Minn. Stat. Minn. Stat. § 609.749.
- Domestic Assault, Minn. Stat. § 609.2242.
- Domestic Assault by Strangulation, Minn. Stat. § 609.2247.
- Violation of a Domestic Abuse No Contact Order (DANCO), Minn. Stat. § 629.75. DANCOs are issued by a judge in criminal court.
- Violation of an Order for Protection (OFP), Minn. Stat. § 518B.01, Subd. 14(b)-(d). OFPs are issued by a judge or referee in civil court.
- Violation of a Harassment Restraining Order (HRO), Minn. Stat. § 609.748, Subd. 6. HROs are issued by a judge or referee in civil court.
- Sex Trafficking, Minn. Stat. § 609.322.

Chapter 2: Initial response

The initial officer or investigator responding to a sexual assault plays a vital role in laying the foundation for a successful investigation. The responding officer is usually the first law enforcement officer the victim encounters and it could be their first interaction with law enforcement in their lifetime. This chapter outlines the key considerations when responding to a sexual assault, emphasizing the importance of preparation, information and evidence collection, and demonstrating patience and empathy when engaging with victim.

Preliminary considerations

Acute vs. delayed sexual assault

It is important to determine whether the sexual assault you are responding to is acute or delayed, as some investigative details may differ. Refer to Chapter 3 for details on investigative response.

Acute: A sexual assault that is reported within 10 days of the incident is considered "acute." Victims of acute sexual assault are encouraged to visit a hospital to be seen by an FNE for evidence collection and medical intervention.

Delayed: A sexual assault that is reported 10 or more days after the incident occurred is considered "delayed." A hospital visit is still beneficial to document any injuries sustained during the assault and for the victim to receive sexually transmitted infection and contraception care. The suspect's DNA will no longer be present on the victim's body after 10 days; therefore, a sexual assault evidence kit will not be collected during a delayed exam.

Stranger vs. acquaintance

Investigative approaches differ depending on the relationship between the suspect and the victim. The bullets below represent a non-exhaustive list of considerations depending on whether the suspect is unknown (stranger) or known (acquaintance) to the victim.

Stranger

- Inquire about the circumstances around first coming in contact with the stranger suspect.
- Identify the scene(s) and any available evidence. Locate landmarks or objects from the scene that are mentioned by the victim.
    - Canvass the scene to identify any possible security video or neighborhood doorbell video available.
    - Depending on the circumstances, inquire if there are any possible objects or clothing the suspect may have touched.
- Determine if there are any witnesses.
- Locate all social media accounts.

- If the suspect's name is not known and there are no known acquaintances the victim has in common with the suspect, it is important to attempt to get the best physical description of the suspect.
    - Sex/age/race.
    - Complexion, eye color, hair color and style, facial hair, tattoos, scars, etc.
    - Clothing, shoes, jewelry.
    - Vehicle information if applicable.
    - Small details regarding the suspect, including any smells the victim remembers, or even the language or slang used by the suspect could help in identifying the suspect or connecting similar cases.

Acquaintance

- Identify the extent of familiarity between the victim and suspect.
- Determine if the victim knows the suspect's full name, first name or nickname.
- List any friends or relatives of the suspect the victim may be aware of, or people the victim believes are better acquainted with the suspect.
- Document the circumstances of how and when the victim met the suspect.
- Identify any employment, school or mutual friends in common.
- Ask the victim to describe the suspect in detail. Inquire if there was anything unusual or that sticks out in the victim's mind regarding the suspect such as tattoos, scars, or unique features.
- Inquire if there was any previous communication (including social media), or consensual contact between the victim and suspect prior to the sexual assault.
- Check if there are any photographs or posts referencing a social situation before the sexual assault.
- Consider arranging a pretext call or other contact from the victim to the suspect. See section on pretext phone calls/texts for more information.

Special circumstance: Children/Vulnerable adult

In sexual assault cases involving children and vulnerable adults, responding officers should limit questions to those that best establish the elements of a crime and the immediate safety of the victim.

Identify the reporting party and their relationship to the child or vulnerable adult. In certain circumstances, anticipate additional victims and identify potential witnesses. For example, list everyone who lives in the residence or the people staying at the care facility involved. Officers should also document the relationship between the suspect and the victim.

Advise parents and other caregivers to not question the child or vulnerable adult about the incident.

In cases of vulnerable adults, officers should establish the victim's status as a vulnerable adult and document the level of the victim's vulnerability as reported by the reporting party and/or caregiver and any observations made by the responding officer.

Interview options

Child advocacy center

It is highly recommended that children and vulnerable adult victims undergo a forensic interview with interviewers who are trained in best practices of forensic interviews from an accredited child advocacy center (CAC). A map of Minnesota's Children's Advocacy Centers can be found in Appendix G.

Children's advocacy centers function under the guidance of state and national accreditation standards (www.nationalchildrensalliance.org). A children's advocacy center is defined in Stat. § 260E.02, Subd. 5. CACs, at a minimum, provide forensic interviews and advocacy services, but many also provide medical examinations, evidentiary kit collection, mental health services to victims and their families, safety planning, protection order filing assistance etc.

A referral to a CAC is appropriate for any child (age 0-18 years) and vulnerable adults (someone below total IQ of 70, concern for cognitive delay, dementia, Alzheimer's, etc.). Absent official documentation regarding the victim's IQ or delay, the instance of an individual who is 18+ receiving county assistance through mental health, financial supports, job coaching, etc. may suffice. Children may be evaluated at a CAC at any time after an alleged assault (acute and delayed services are available).

CACs can provide the above-mentioned services not only for victims of sexual abuse, but also for witnesses who may be able to provide corroborative information regarding the act(s) of an offender or any accomplices.

Once an interview has begun, narrative practice assists/determines their level of functioning according to responses to the offered invitations.

Law enforcement

If a CAC is not available, pursuant to Minn. Stat. § 260E.22:

- You may interview the child outside the presence of the alleged offender and the interview may take place prior to any interviews of the alleged offender.
- You DO NOT need to notify the child's parents in advance of the interview and DO NOT need to include them.
- You DO need to inform the parent, legal custodian, or guardian at the conclusion of the investigation or assessment that the interview has occurred.
- Interviews of child victims of sexual abuse and child witnesses must be audio or video recorded.
- If an alleged offender or person responsible for the care of the victim or other child prevents access to the victim or other child, talk to a prosecutor about getting a court order.

Child/Adult protection workers can assist law enforcement and can be a helpful resource providing valuable information regarding the family history or victim's vulnerabilities to law enforcement. Law enforcement is required to report the abuse of a child or vulnerable adult to

child protection and/or the Minnesota Adult Abuse Reporting Center (MAARC) (https://mn.gov/dhs/report-abuse/).

See page 27 for other important response considerations.

Officer response

First contact with victim

Victim health and safety is a responding officer's top priority. Victims of sexual assault have endured a life-altering traumatic event which can affect many aspects of their overall health, including memory and recall. During the initial interaction with the victim, perform the following actions:

- Collect only pertinent information to establish probable cause (who, what, where, when) from the victim; an in-depth interview should come later, when the victim is well rested.
  - Ask about and document signs and symptoms of injury, including strangulation.
  - Request preferred contact information for the victim for follow-up. Ask if the telephone number is a safe one (if it is used by others), if it is safe to leave a voicemail message and if it is safe for the victim if callers identify themselves from the agency.
- Arrange for the victim to go to the hospital for a sexual assault nurse's forensic examination. The sooner the exam is done, the better. Critical evidence will be lost if the victim waits too long.
  - Attempt to determine the location or jurisdiction where the assault took place.
  - If the incident occurred outside of your jurisdiction but is being reported in your jurisdiction, the officer is required to prepare a report. Create and provide a copy of the report to the agency having jurisdiction (and made available to the victim) as soon as practical.
- Collect any clothing or linens associated with the assault. If the victim is still wearing clothing from the assault and a sexual assault examination is not going to take place, have them change into different clothing so you can collect the potential evidence. Do not collect victim clothing unrelated to the assault (e.g., shoes, winter coats, purses, etc.).

Witness and victim interviews

Officers should separate witnesses and the victim to avoid cross-contamination of statements. Interviews should be conducted in a way that minimizes trauma to the victim, using trauma-informed techniques.

Officers should document everything that happens at the scene including the victim's description of the assault, the perpetrator (if known), any evidence found and the condition of the scene. This is crucial for building a case and ensuring that no detail is overlooked.

Drug and/or alcohol facilitated sexual assault

Drug-facilitated sexual assault (often referred to as "date rape") is when an offender uses alcohol or drugs to compromise the victim's ability to consent to sexual contact. Offenders use such substances to lessen inhibitions, lower or impair resistance to sexual advances, and cloud the victim's memory. Be aware that offenders often mask the taste of a drug by putting it in an alcoholic beverage given to the victim. If evidence suggests the victim was the victim of drug-facilitated sexual assault, you need to consider the following:

There are hundreds of substances used, from over the-counter to prescription drugs. Research consistently shows the most common drugs involved in drug-facilitated assaults are alcohol and cannabis, with victims often reporting self-consumption. Regardless of whether substances were forced unbeknownst to the victim or self-consumed, all have similar central nervous system effects, including:

- Vision changes, including blurred vision
- Slurred speech
- Drowsiness
- Dizziness
- Disorientation
- Erratic behavior
- Nausea/vomiting
- Motor impairment
- Memory loss or unconsciousness
- Impaired judgment
- Body temperature changes
- Nausea
- Loss of bowel or bladder control
- Difficulty breathing
- Intoxication that doesn't match the amount of alcohol consumed
- Missing periods of time or limited memory

Know how to identify the effects of drugs commonly used to facilitate sexual assault.

- Drugs are typically odorless, colorless, and tasteless. The exception, GBL, can have a bitter taste and usually is masked by a stronger alcoholic beverage.
- Onset of effects is usually about 30 minutes.
- The victim may struggle to talk or move, or may pass out.
- Identify who took care of the victim after the victim appeared extremely intoxicated.
- Often a victim will blame themselves for drinking too much or taking drugs. Emphasize that it is NOT the victim's fault.

If you believe drugs were used to facilitate sexual assault, be aware that many of the drugs leave the body within 12 to 72 hours:

- Rohypnol leaves the body within 36 to 72 hours.
- GHB leaves the body within 10 to 12 hours.
- GBL leaves the urinary system within six hours and bloodstream within 24 hours.

If you believe drugs were used to facilitate sexual assault, consider asking such questions as:

- "Did the suspect give you a drink?"
- "Was there any opportunity for somebody to put something in your drink?"
- "How did the drink make you feel?"
- "Did the drink taste funny?"

Be careful how you pose the question to the victim. Poorly worded questions about alcohol consumption can make the victim believe they are being blamed for consuming alcohol or taking drugs. The fact that a victim voluntarily consumed alcohol or used drugs DOES NOT automatically prevent a sexual assault from being charged.

If you believe drugs were used to facilitate sexual assault, consider the following:

- Request a medical provider obtain toxicology samples for drug testing. This can be declined by the victim/patient.
- Inform the medical provider conducting the sexual assault examination about your suspicions that the assault was drug facilitated.

Victim support

It is essential to respect the victim's choices throughout the process, including whether they would like the suspect criminally charged or participate in certain aspects of the investigation. Support services such as victim advocates or counselors should be made available to help the victim navigate the process and to address emotional and psychological needs.

Role of sexual assault counselor/advocate

If your agency has access to an advocacy agency, it may be beneficial to make initial contact on behalf of the victim. Advocates may assist in:

- Explaining the process to the victim.
- Staying with the victim during the sexual assault exam.
- Arranging a ride home.
- Helping with connecting the victim to services needed.
- Assisting in writing Orders for Protection (OFP).
- Following up with and keeping the victim engaged in the process.
- Attending court hearings with the victim.

Refer to Chapter 7 for more information about advocacy agencies.

Safety plan

Creating a safety plan for a sexual assault victim is an important step in empowering the individual and helping them regain control of their safety and well-being. The plan should be tailored to the person's specific situation, needs and circumstances, and may include practical steps for immediate safety, ongoing support and emotional recovery.

Immediate safety and protection

If the assault just occurred, the responding officer has to plan their initial response to best utilize officer safety tactics and coordinate appropriate resources to not only capture the suspect(s) if they are still in the area, but also to be ready to provide appropriate medical triage/services to the victim as applicable.

Whether the report is acute or delayed, it is critical for the officer to consider offering and explaining to the victim the various resources available in their jurisdiction such as victim advocacy services, shelters, etc.

Emotional support and mental health

- Officers are strongly encouraged to provide the victim information regarding access to professional support in their jurisdiction, e.g., reaching out to a therapist, counselor, sexual assault advocacy group, or support group that specializes in sexual assault trauma.
- Sexual assault hotlines can be a confidential and safe way to receive immediate counseling and information about options for next steps.
- If the responding officer's jurisdiction does not partner with a sexual assault advocacy group, the National Sexual Assault Hotline (RAINN) offers free, confidential support at 800-656-HOPE (4673).

Bias and trauma

Everyone has some form of implicit bias, whether they want to admit it or not. Implicit bias does not mean you suffer from a character flaw; it's just part of being human. Implicit associations that we harbor in our subconscious cause us to have feelings and attitudes about other people based on characteristics such as race, ethnicity, age, sexual orientation, as well as appearance and behaviors. These associations develop over our lifetime. They are pervasive and don't necessarily align with our conscious, declared beliefs and positions. As hard as we may try to avoid these biases, our brains unconsciously go there. It is vital to recognize implicit bias when responding to and investigating sex crimes.

Implicit biases can cause officers to unwittingly adopt rape myths, such as:

- Victim would have said no if they didn't want it.
- Victim would have fought back, screamed or fled if it really happened.
- Victim would have reported it right away if it really happened.
- Victim shouldn't have had so much to drink. It's their own fault.
- The ongoing contact they had after the "rape" proves they are lying.
- Many inconsistencies make it look like they are lying.
- If there's no DNA, it didn't happen.
- Officer can tell in their "gut" that it didn't happen.

These are all myths. Trauma victims often do not respond in the way we might think they will.

A traumatic event instantly and radically changes the brain's neurochemistry, including the region that involves memory formation. The ability to recall and sequence events following a traumatic event is often disrupted and can cause victims difficulty and responding to what may seem to be logical questions. Victim presentation varies significantly. A victim may appear dazed, unable to communicate, sobbing, fearful, anxious, angry, drugged, apathetic, shameful, laughing or even "normal," which can be confusing to officers. Inconsistent and disrupted responses are common. Though this can be frustrating, studies show that memories of the traumatic event are generally accurate because the emotional experience heightens memory. It is often critical to take a preliminary report and follow up with a supplemental, more detailed report, after the victim has gone through at least two full sleep cycles.

Language access

Officers shall provide language assistance when needed in accordance with their agency's Limited English Proficiency and Communicating with Deaf or Hard of Hearing Individuals policies.

Language access means providing comprehensive and appropriate language assistance services to individuals with limited English proficiency, individuals who are deaf and hard-of-hearing, individuals who are blind or have visual impairments, individuals with developmental and physical disabilities who need assistive technologies for communication, and individuals with lower health literacy.

If an interpreter is needed, DO NOT use children, family, friends or other witnesses. Call the Minnesota State Language Line (https://mn.gov/commerce-stat/pdfs/language-line-info.pdf) at 800-367-9559. Each police/sheriff's department will have their own #ID.

Collecting and preserving evidence and the scene

Preserving the integrity of the scene is vital for collecting evidence, protecting the victim's privacy and supporting the prosecution of the perpetrator. Even in cases where consent may be a defense, gathering all possible evidence is essential to a complete investigation. Here are the main steps taken to preserve a sexual assault crime scene:

Secure and protect the scene

Establish a perimeter (if assault recently occurred): Officers should secure the area around the crime scene to prevent contamination. This involves limiting access to authorized personnel only and ensuring that any witnesses or individuals who do not have a legitimate reason to be present are kept out.

- Avoid Disturbing the Evidence: Officers should avoid touching or moving objects within the scene unless absolutely necessary. Any potential evidence, such as clothing, weapons, or objects the perpetrator might have left behind, should remain undisturbed until the scene has been adequately documented.
- Document the Scene: The scene should be thoroughly photographed before, during, and after any evidence is collected. Photographs should capture the overall environment as well

as any specific evidence, such as physical injuries, signs of struggle, or items that could indicate assault (e.g., condom wrappers, broken furniture, etc.).

Evidence from forensic examinations

From the victim

Make arrangements for the victim to receive a sexual assault exam at a hospital. See Chapter 6 for information on what happens during a victim's sexual assault exam (Forensic Medical Exam).

A forensic examination, which is conducted by a forensic nurse examiner (FNE), is essential for collecting any potential physical evidence from the victim, as well as gathering the victim's account of the incident and offering services. This includes swabbing for DNA, collecting clothing, taking photographs of injuries and documenting any physical evidence of the assault.

Any clothing the victim was wearing at the time of the assault should be carefully collected and preserved. Victims should be instructed to avoid changing clothes, showering or using the bathroom if possible until forensic evidence can be collected.

From the suspect

Digital forensic evidence: Be aware of any potential digital evidence that can be preserved and/or recovered from social media, computers, cell phones and other forms of electronic communication. All efforts should be made by the responding officer to obtain any potential usernames, monikers, phone numbers or other descriptors to properly identify the perpetrator. Take screen shots of significant messages, photos or other evidence of contact between the victim and suspect that the victim or other witnesses have on their phone or other device.

Like the victim, the suspect's body is part of the crime scene. Secure the suspect's DNA (if possible): If there is a suspect in custody or if a suspect's DNA is otherwise obtainable, e.g., from the crime scene or a suspect's personal items, this should be collected and preserved for later comparison with any evidence found at the scene or on the victim. Suspect exams can be very helpful to the investigation of a sexual assault and require a search warrant. Search warrant language for suspect exams can be found in Appendix E.

There may be more victim DNA found on a suspect than suspect DNA on a victim. A suspect exam can aid in incrimination or exoneration of a suspect. Useful evidence can be collected from a suspect's body within 120 hours of an alleged assault. Some jurisdictions utilize FNEs for suspect exams; however, certain items can be collected by law enforcement.

Additional considerations for suspect exams:

- Suspect interviews should be conducted *before* suspect exams if possible.
- Explain the exam process prior to performing evidence collection or prior to the FNE arriving.
- Notify the hospital prior to arrival of the need for a FNE.
- Do not let suspect drink, wash themselves (including their hands) or urinate before evidence collection.

- Try to avoid contact between the suspect and victim by utilizing different FNEs.
- What details of the assault can guide evidence collection?
  - What occurred during the assault?
  - Types of penetration - digital, oral, penile.
  - Kissing or licking of various body parts.
  - Wounds such as biting, scratching, bruising.
  - Position of victim and suspect.
  - Urine sample: Sexually transmitted infections?

Digital forensic evidence: Be aware of any potential digital evidence that can be preserved and/or recovered from social media, computers, cell phones and other forms of electronic communication. All efforts should be made by the responding officer to obtain any potential usernames, monikers, phone numbers or other descriptors to properly identify the perpetrator. Take screen shots of significant messages, photos or other evidence of contact between the victim and suspect that the victim or other witnesses have on their phone or other device.

Consider speaking with a county attorney for further guidance.

Sample collection techniques for law enforcement

Remember the following when collecting samples from suspects:

- The highest concentrations of DNA will be located in crevices
- Swab the entire area using the same swabs applying even pressure across the surface
- Body fluids can drain into other areas. Collecting samples from areas not directly involved in the assault could yield foreign DNA (e.g., Anal or scrotal swabs)
- Pubic hair combings should only be collected if the suspect has not showered or bathed

Evidentiary swabs timeline

Personal hygiene and natural bodily functions remove foreign DNA from various areas of the human body over time. The table below summarizes how many hours after an assault foreign DNA can be obtained from various body locations.

Assault Type	Sample Collected	Time After Assault
Oral contact	Oral swab (cannot be used as a known sample)	12 hours
Strangulation/forceful handling	Hand and/or fingernail swabs	72 hours
Digital penetration		
Scratching		
Genital contact	Male Suspect: Penile Swabs, Scrotum Swabs Female Suspect: Vaginal Swabs, Cervical Swabs	72 hours
Penile penetration	Male or Female Suspect: Perineal Swabs, Mons Pubis Swabs, Anus/Rectal Swabs, Pubic Hair Combings	72 hours

Evidence collection considerations

Using proper techniques when collecting evidence is vital to the integrity of the investigation. Wear protection such as gloves and even facemasks when necessary.

Unused containers are necessary for evidence collection. DNA swabs and trace evidence should be collected in paper business envelopes and larger items, e.g., clothing and bedding, should be collected into paper bags. Never use saliva to seal envelopes as this can result in DNA contamination. Allow items of evidence to air-dry as much as possible before packaging and avoid using plastic containers when possible.

Reference DNA sample

Obtain a reference DNA sample from the suspect.

- Collect a buccal swab
- If the suspect's mouth was in contact with the victim's genitalia, a sample could be a mixture of suspect and victim DNA. Collect an evidentiary oral swab first. Then, after the suspect cleans their mouth, collect a buccal swab as a known sample.
- An example DNA consent form can be found in Appendix B.

Body inspection & photographs

Look for identifying marks or scratches and abnormalities on both the suspect and the victim.

- Corroborate witness statements.
- Ensure medical care.
- Document physical and/or sexual trauma.
- Swab areas where victim DNA may have touched.

Urinary screening for STIs

- Chlamydia and Gonorrhea are the most commonly reported sexually transmitted infections (STI).
- Screening is especially important when the victim is a child or a vulnerable person.
- Screening can be performed on the suspect with probable cause and a search warrant.
- STI symptoms develop within one to three weeks of contact.

Evidence handling and maintaining the chain of custody

Every item of evidence must be individually packaged, labeled and stored to ensure its integrity. The chain of custody must be documented to include the case number, item description, location of collection, date, time and collector's identification. This information must be documented from the moment evidence is collected until it is presented in court. This helps ensure that evidence has not been tampered with or contaminated.

Evidence submission and transport

All collected evidence must be transported to forensic labs in a way that preserves its condition. This includes DNA swabs, clothing and other physical items.

Note: Sexual assault evidence kits should be refrigerated until submission to the laboratory.

Evidence should be transported in sealed, tamper-proof containers and investigators/officers should follow strict protocols for labeling and storing items to prevent any form of contamination or mishandling.

Other important considerations

Sexual assault at school

Responding to a sexual assault involving a student at school is very similar to responding to other types of sexual assault involving a child; however, there are key differences because the assault occurs on school grounds. To begin with, the responding officer is responsible for doing the following in the event of a school sexual assault:

Notify appropriate authorities

- School Administration — Inform the school's administration of the incident, as they should have protocols in place for reporting and responding to such situations.
- Investigative Unit — If the situation is complex, involve specialized units such as a sex crimes investigator or school resource officers (follow department protocol).
- Minnesota Department of Education — If suspected abuse occurred on school grounds and/or involving staff, the Department of Education must be notified using the Student Maltreatment Form (https://education.mn.gov/MDE/fam/maltr/) or by calling the 24-hour reporting line: 651-582-8546.

Conduct initial interview with the victim

If victim is a juvenile, DO NOT INTERVIEW unless department policy or procedure dictates otherwise. Refer the juvenile for a forensic interview.

- Obtain information of the offense including elements of the crime and the date/time of the most recent incident.
- Consider arrest and suspect forensic collection exam.
- Determine if there is a public safety threat.
- Identify and interview the first person/persons to whom the child disclosed the sexual assault.

Avoid re-traumatizing the victim. Maintain a supportive and trauma-informed approach to avoid further emotional harm to the victim. Use age-appropriate language when interacting with younger victims.

Follow-up

The officer or investigator should maintain communication with the victim and school administration to ensure that necessary support services are provided and that the case is investigated thoroughly.

Encourage the school to offer counseling services for both the victim and others affected by the incident.

Monitor for further threats or issues

Ensure that the victim and other students are safe from retaliation or further harm. The officer may coordinate with school authorities to implement safety measures or adjust the student's schedule, if necessary.

The overall approach should prioritize the well-being of the victim, ensure a thorough and ethical investigation, and protect the integrity of the legal process.

Familial sexual abuse disclosure at school

In the event a child discloses sexual abuse that occurred in the home or with a family member, determine:

- Is the child safe?
  - Notify Child Protective Services (CPS) as soon as possible.
  - Determine whether the child needs to be placed outside of the home.
- Proceed with investigative procedures involving children.

Child abuse mandated reporting

Per Minn. Stat. § 260E.06, police officers are mandated reporters and are required to immediately report cases of child abuse in which an officer knows or believes a child (under the age of 18) has been neglected, or physically or sexually abused.

Physical and sexual child abuse offenses only include cases in which the actor or suspect:

- Is a person responsible for the child's care;
- Has a significant relationship to the child (parent or legal guardian or caretaker); or,
- Is a person in a position of authority over the child, as defined by Minn. Stat. § 609.341.

In such cases, the responding officer shall complete a police report with the code for **Child Abuse**. The police report shall be completed even if the child abuse offense may have occurred in another jurisdiction.

Upon receipt of the police report, the law enforcement agency shall cross-report all abuse cases with their local child protection agency or cross-report statewide as necessary for investigation. Reporting forms for the Minnesota Department of Human Services are available at: https://mn.gov/dhs/report-abuse/.

Vulnerable adult mandated reporting

A vulnerable adult, as defined by Minn. Stat. § 626.5572, Subd. 21, is any person 18 years of age or older who:

1. Is a resident of a facility (as defined in Minn. Stat. § 626.5572, Subd. 6);
2. Receives services at or from a facility required to be licensed to serve adults under Minn. Stat. §§ 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under Minnesota Statutes Chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause [4];
3. Receives services from a home care provider required to be licensed under Minn. Stat. §§ 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under Minn. Stat. §§ 256B.0625, Subds. 19a, 256B.0651 to 256B.0654, and 256B.0659; or
4. Regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental or emotional dysfunction:
    a. That impairs the individual's ability to provide adequately for their own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
    b. Because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect themselves from maltreatment.

Minnesota law requires that law enforcement personnel immediately report all cases of abuse, neglect or financial exploitation of a vulnerable adult via the Minnesota Adult Abuse Reporting Center at 844-880-1574 or https://mn.gov/dhs/report-abuse/.

Officers should document in their police report the date and time of this notification. Intentional failure by law enforcement personnel to report abuse, neglect or financial exploitation to the Minnesota Adult Abuse Reporting Center is a misdemeanor. If it results in the death of a

vulnerable adult, the failure to report becomes a gross misdemeanor. Officers are immune from any civil or criminal liability that might result from their actions provided they are acting in good faith (Statute date July 1, 2015).

Chapter 3: Investigation

Investigation of sexual assault is typically more complex than other crimes because it can involve multiple crime scenes, difficult interviews with the victim and/or suspect and can trigger personal emotions and bias in the investigator. If an investigation is not properly conducted, the victim can suffer irreparable harm and the offender may escape justice. Effective investigation involves knowledge of relevant laws, putting biases aside, keeping an open mind and understanding the sexual assault investigation process. Trauma-informed approaches should always be used to gather evidence and facts. This chapter highlights the important aspects that should be included in your sexual assault investigation.

Many of the topics in this chapter have been briefly covered in Chapter 2 but should be assessed in-depth throughout the investigation. It is up to the investigator to double check and see if anything may have been missed or overlooked.

Transition: Initial response to investigation

Ensure crime scene(s) and evidence have been fully identified

All of the following should be considered locations from which evidence could be collected:

Victim's Body	Suspect's Body	Physical Locations	Transfer Locations	Technology	Social Media
Sexual assault kit Full body, clothed photos	Suspect exam Full body, clothed photos	House (various rooms) Vehicle Park Bar School	Post-assault clothing change Post-assault hygiene (towels, wipes, etc.)	Cellphones Cameras Router Laptops/computers/tablets Smart device Watches Beds Vehicle computers Body-worn camera In-car camera	Social media posts Location information Messaging

Questions that should be asked when identifying the scene include:

- Did the crime occur within your jurisdiction?
- Could there be related crimes in other jurisdictions?
- Do you need to coordinate with agencies in other jurisdictions?

Victim's cell phone

Consider collecting the victim's cell phone to obtain potentially crucial digital evidence such as text messages, photos, videos and contact information. This should be done with the victim's informed consent, with respect for their privacy, and only if such evidence cannot be collected in any other reasonable way.

At a minimum, photograph significant text and/or social media exchanges with the suspect prior to, during or after the assault. Be sure to capture date and time, if possible. Photos, geolocation data and call logs captured by the victim's phone may also have evidentiary significance and should be preserved.

Evidence preservation and storage

Evidence should be collected as soon as possible following the report of a sexual assault. Refer to Chapter 2 for evidence collection information. Ensure that evidence was properly packaged and nothing is wet or leaking before submission to the crime laboratory.

Delayed sexual assault reporting (over 10 days)

Evidence may have been lost in the 10 (or more) days from the sexual assault incident to the time of reporting. Ask if the victim took any photos of their injuries after the assault. Determining the specific location where the sexual assault occurred, and whether the suspect is an acquaintance, stranger, or in a significant relationship with the victim, will help determine if there is possible evidence valuable to the case that can still be collected. There may be clothing, bedding, condoms/wrappers or bottles the suspect touched still available for DNA testing.

Did the victim communicate with the suspect before and/or after the sexual assault? If so, was the communication over text or social media, in person, or over the phone, or through a third party? Were there any witnesses to the conversation(s)? Do they still have access to the messages?

Did the victim discuss the sexual assault with friends, relatives or co-workers? These witnesses could provide valuable information about the assault and corroborate the victim's account of the incident.

Additional investigation considerations

Photos/videos

Photographs of the scene of an acute or delayed assault should be obtained. Check for any surveillance video that could provide evidence pertaining to the case.

- Businesses
- Doorbell cameras
- Street cameras
- Personal videos/Social media
- Uber/Lyft/rideshare, etc.

Immediately preview any video to ensure you have been given the correct video, time and date to ensure losing any critical evidence.

Secondary canvass

Canvass additional locations where the suspect and victim may have been before, during or after the assault to identify potential witnesses or locate video surveillance.

911 call/Radio traffic

Many dispatch centers only hold 911 calls and/or radio traffic for a certain number of days. Submit a request as soon as possible for the recordings and make sure you document that you have requested the item/items.

Carefully listen to the 911 call for any additional information, potential witnesses or other evidence.

Identify all parties who may be involved

- Suspect
- Victim
- Complainant
- Witnesses, e.g., first witness outcry, bartenders, rideshare drivers, friends and family

Obtain alternate contact information if possible as you may need to take their cell phone.

Suspect identification

You must gain as much information about a suspect as possible, but you also must confirm the identity of the suspect.

Technological advances have led to a vast amount of available information that can help you positively identify suspects very quickly. Verify a suspect's identity through:

- NCIC criminal histories
- Local jurisdiction fusion information centers
- Interagency/local agency databases
- Internet searches
  - Google
  - Pipl (www.pipl.com)
- Search services – provided for a subscription price
  - US Search
  - PeopleFinders
  - Intelius
  - Spokeo

Communication between suspect and victim

All communication between the victim and the suspect can be pertinent to the investigation. The following is a non-exhaustive list of items and applications to review for potential communication:

- Electronics
  - Phones (place cell phones in Faraday bags)
  - Computers/Laptops/Tablets
  - Fitbit, Apple Watch and other smart devices
- Social Media
  - Facebook
  - YouTube
  - Instagram
  - Snapchat
  - Dating websites

Pretext phone calls/texts

- A pretext phone call or text exchange follows a scripted set of controlled questions prepared by the investigator. Its purpose is to elicit additional information between the suspect and the victim.
- To conduct a pretext phone call or text, you must:
  - Obtain explicit permission from the victim to place the phone call.
  - Provide a script for the victim to follow.
  - Keep the script as evidence.
  - Have necessary recording equipment.
  - Ensure that the victim's needs are met before, during and after the phone call or texting. Consider having an advocate present or available.
  - Be present during the phone call or texting.

Warrant/preservation letters

It is necessary to preserve digital information as quickly as possible to avoid the loss or destruction of data. Here are some questions to consider when determining next steps for obtaining evidence:

- Have warrants/preservation letters been done for any digital evidence that could be obtained, e.g., phones, Fitbit, Apple Watch, smart devices, social media, modems, etc.?
- Is a warrant needed for any video surveillance?
- Do you need to obtain a DNA warrant?
- Have you filed your warrants?

Victim therapy records

Consult with a prosecutor before collecting therapy records. Collecting therapy records is often not advisable to preserve the integrity of the therapeutic relationship. Confidentiality laws protect

the collection and disclosure of these records. Violating the confidential nature of the therapeutic relationship is typically done only in extraordinary circumstances.

Sexual assault examination kits

Minn. Stat. § 299C.106 outlines the required transport and storage timelines for sexual assault examination kits (SAE kits) across Minnesota. The two subdivisions below specifically reference law enforcement officials and must be followed. Refer to the full statute for further information regarding sexual assault examination kit collection, storage and tracking. See Figure 1 below for a kit processing visual map.

Subd. 2. **Transfer of unrestricted sexual assault examination kit from health care professional to law enforcement agency**

When a sexual assault examination is performed, evidence is collected, and the patient requests that law enforcement officials be notified and signs a release form (BCA-F-1000), the individual performing the examination, or the individual's designee, shall notify the appropriate law enforcement agency of the collection of the evidence in an unrestricted sexual assault examination kit. The agency must retrieve an unrestricted sexual assault examination kit from the health care professional within 10 days of receiving notice that the kit is available for transfer. Notification to the agency shall be made in writing, by telephone or by electronic communication.

Subd. 3. **Submission and storage of sexual assault examination kits.**

(a) Within 60 days of receiving an unrestricted sexual assault examination kit, a law enforcement agency shall submit the kit for testing to a forensic laboratory. The testing laboratory shall return unrestricted sexual assault examination kits to the submitting agency for storage after testing is complete. The submitting agency must store unrestricted sexual assault examination kits indefinitely.

(b) Within 60 days of a hospital preparing a restricted sexual assault examination kit or a law enforcement agency receiving a restricted sexual assault examination kit from a hospital, the hospital or the agency shall submit the kit to the Bureau of Criminal Apprehension. The bureau shall store all restricted sexual assault examination kits collected by hospitals or law enforcement agencies in the state. The bureau shall retain a restricted sexual assault examination kit for at least 30 months from the date the bureau receives the kit.

(c) Beginning July 1, 2024, the receiving forensic laboratory must strive to test the sexual assault examination kit within 90 days of receipt from a hospital or law enforcement agency. Sexual assault examination kits shall be prioritized for testing along with other violent crimes. Upon completion of testing, the forensic laboratory must update the kit-tracking database to indicate that testing is complete. The forensic laboratory must notify the submitting agency when any kit

is not tested within 90 days and provides an estimated time frame for testing completion.

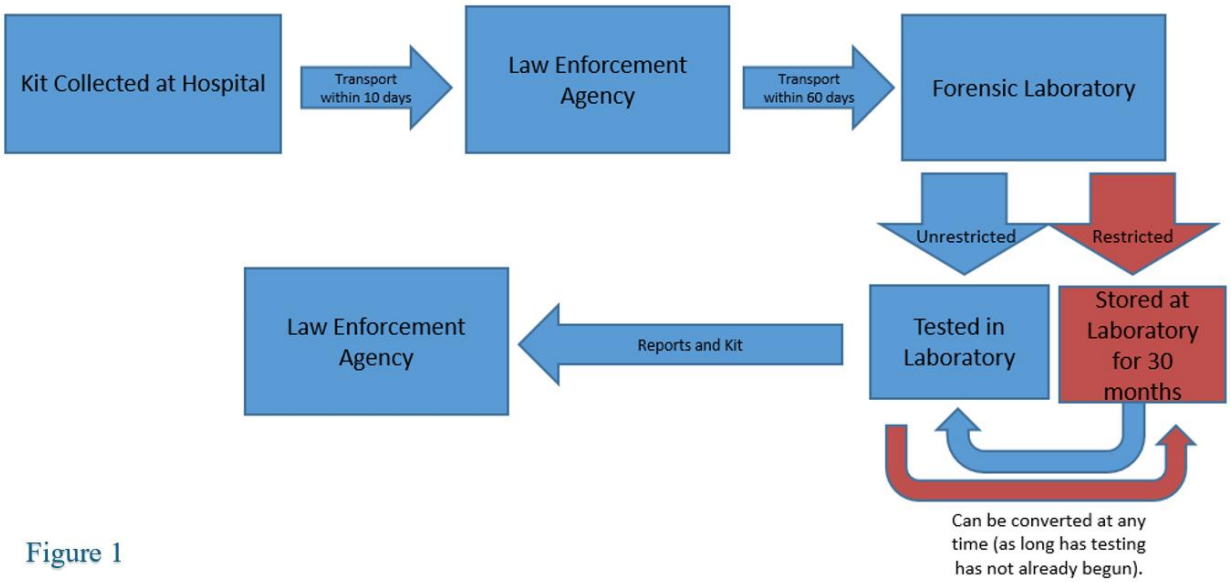


Figure 1

Known DNA samples

Obtain a DNA sample (buccal swab) from the suspect to be used as a comparison to any DNA profiles obtained from the SAE kit collected from the victim. DNA samples should be submitted with the SAE kit to the BCA lab for processing to avoid any delays in testing the SAE kit.

It is important to collect known DNA samples from the victim's consensual partner if they have had sexual contact within five days of the assault. If other individuals (not directly involved in the crime) may have left DNA behind at the crime scene(s) or on relevant evidence items, collect and submit their known DNA samples as well.

Note: Pursuant to a 2024 Minnesota Court of Appeals decision, you will need a court order AND a search warrant to obtain a defendant's DNA once the case is formally charged. You can collect this evidence pursuant to a search warrant without a court order at any time prior to the filing of criminal charges. The court decision is currently under review by the Minnesota Supreme Court. State v. Steeprock, 10 N.W.3d 683 (Minn. App. 2024), review granted (Nov. 19, 2024).

Interviews (in-depth)

Victim

Trauma-informed interviewing

Law enforcement's response to a trauma victim sets the foundation of the victim's mental health and recovery as well as the foundation of the criminal case.

Understanding the science behind trauma and the human brain will help officers and investigators better understand the victim's actions, recall and cognitive ability during the traumatic event.

The human brain responds to trauma by releasing hormones that affect behavior. These hormones can create natural adrenaline and energy as well as natural morphine and oxytocin that block physical and mental pain. These hormones cause a wide range of physical and emotional responses in victims. A victim may appear energetic or emotionless with a total flat affect. In some cases, victims may smile or even laugh. Some victims may be immobile and unable to say anything during a traumatic event. All of these responses are evidence of trauma, completely normal, and expected in someone who has experienced a traumatic event. There is no typical victim response to sexual assault.

Trauma also impacts how the brain stores and recalls memories. The victim's memories are accurate but may not be recalled chronologically or may appear inconsistent as the victim remembers more details over time. Officers may notice a victim reports small details that may appear to be irrelevant to the case while not being able to recall important elements of the crime. This is another example of the effects of trauma on the human brain. The victim may recall more details as the brain heals.

Law enforcement should avoid asking the victim "why" questions and instead use more phrases like "tell me more about…." Law enforcement's first encounter with the victim of a sexual assault often determines if the victim will want to participate in the criminal justice process. Putting the victim and his/her wellbeing first is the best way to ensure the victim's short- and long-term mental health is a priority and helps create a sense of trust for the victim. Acknowledging the difficultly for a victim of sexual assault to report by telling the victim you are sorry this happened to them and listening with no judgment will help the victim begin the healing process as well as increase the likelihood the criminal case can move forward.

Here are some things to consider prior to conducting a victim interview:

- Investigators should prioritize the victim's health and safety. It is beneficial for the victim to consent to a sexual assault nurse's forensic examination.
- It is recommended that the victim be well rested before the interview. Victims of sexual assault have endured a life-altering traumatic event. The effects of trauma on the human brain affect many aspects including memory and recall.
- The interviewer should be prepared for the victim to recall incident details in a scattered or nonlinear narrative. Let the victim recall the event in its entirety **without interruption**. Initially asking open-ended questions may garner more information from the victim, such as "tell me more about…" or "what do you remember about…."
- More direct questions can then be asked to gather detail or specifics.
- Inquiring about potential drugs or alcohol the victim may have consumed just before, during or even after the sexual assault may help explain lapses in memory.
    a. Determine if the suspect facilitated the sexual assault with drugs or alcohol.
    b. Inquire about prescribed medications and any potential side effects for the victim.

- It is important to locate the scene of the sexual assault as precisely as possible.
- Asking sensory questions including sights, smells, sounds and tastes can help aid memories and provide additional detail.
- Include the elements of the crime such as whether force or coercion occurred, any significant relationships, ages and authority positions.
- Suspect name and description
    a. Victim's relationship to suspect, if any
    b. Address any potential consent issues
    c. If the suspect is a stranger, get a detailed description and ask whether there is a third party with more knowledge of the suspect.

Children/Vulnerable adult victims

If possible, have children and vulnerable adult victims interviewed by a forensic interviewer trained in this field. If that is not possible, investigators who interview children and/or vulnerable adult victims will need to establish the victim's cognitive ability and adapt language and questions to their level.

Establishing rapport is important. Starting with simple questions, such as what the victim prefers to be called, who the victim lives with and where the victim goes to school or work can help build trust and rapport and as well as establish the victim's level of understanding.

If the case involves touching or penetration, asking the victim to tell you what they call different parts of the body and document the words (using quotations) the victim uses to reference female and male genitalia, buttocks and breasts in your report. Using the assistance of a diagram or anatomical doll if available can be helpful.

Depending on the victim's level of understanding, some questions the interviewer could ask the victim include:

- Have you ever been touched in an area or way that you didn't like?
- Who touched you?
- What did that person say to you about it?
- Where were you when it happened?
- How many times did it happen?
- How did that make you feel?
- Who did you tell about it?

Watch for possible cues in the victim's body language, such as looking down or away, fidgeting or facial expressions as a way to express they are uncomfortable or wanting to end the interview. It is okay to repeat a question, perhaps rewording some if necessary, but if the victim is not opening up or is beginning to show signs of restlessness or anxiety, end the interview.

Other complainants

Interviewing a complainant (for example a 911 caller or mandated reporter) should include the information the complainant:

- Saw
- Heard
- Found
- Was told by another (Do not get distracted with what you determine could be hearsay. Collect the information and the attorney will make that determination).
- How the complainant is acquainted with or is known to the victim or suspect

If possible, get the 911 call from dispatch and review any evidence, such as video surveillance and officer's body worn camera (BWC), before interviewing the complainant

Witnesses

Responding officers may have identified witnesses at the scene of the sexual assault. It is important to interview each witness and get their statements. Investigators may want to ask witnesses if there is anyone else they think should be interviewed. Asking the victim if they are aware of any witnesses who should be talked with is important as well.

Identify witnesses and obtain background information including social media searches. Include other relevant evidence:

- Texts
- Call logs
- Social media posts
- Journal entries
- Photos taken by victim, friends or family

Outcry witnesses

An outcry witness is someone who did not personally witness the crime, but who the victim tells about the sexual assault shortly after it occurs. It is important to interview outcry witnesses and document what the victim said to them. Their statement is important and may help corroborate the victim's account of the sexual assault.

Outcry witness texts, social media posts, voicemails and phone logs are also important pieces of information/evidence.

Suspect investigation

Whenever possible, conduct searches on the suspect before conducting the suspect interview. Searches can help determine the arrest history, prior police contacts, domestic relationships, children, as well as civil cases such as restraining or harassment order hearings that may provide potential valuable information for your interview.

Background check

A background investigation is more than asking for a driver's license check, checking for warrants or finding out if a person has an officer caution alert. It's an actual investigation looking for all available relevant information and evidence.

A background investigation will give you important insight from different intelligence and information sources such as:

NCIC criminal histories

- Prior sexual offenses
- Registered sexual offender
- Violent crimes
- Domestic violence crimes
- Prior criminal convictions with sexual elements but not classified as sexual crimes:
  - Fetish burglaries
  - Intimate apparel
  - Stalking
  - Surreptitious behavior
  - Disorderly conduct

Minnesota Fusion Center requests

Contact the Minnesota Fusion Center at the BCA for information on:

- Employment
- Firearms permit
- Vehicle information
- Anti-government activity
- Gang activity
- Officer caution from other states
- Social media activism
- Other information

Internet searches

Social media

- Sexual posts
- Sexually degrading images
- Affiliation with adult websites
- Dating profile
  - Past relationships to identify previous partner for an interview
  - Posts about suspect from prior relationships
  - Potential modus operandi

Organization membership

- Sporting clubs including gun clubs

Other information

- Google suspect
- Suspect affiliations

Other jurisdictions

Suspects are often mobile and may have committed crimes in nearby locations. Be sure to check other jurisdictions for the following:

- Similar crimes
- Transient suspect
- Active investigations
- Previous contact with law enforcement

Prior partners

The suspect's prior partners can provide critical information regarding relationship history, to include:

- Pattern of violence — Check statewide court system for current or previous OFP/harassment/restraining orders
- Suspect behavior such as:
  - Non-consensual sexual acts
  - Violent sexual behavior
  - Rape fantasy
- General demeanor toward prior partner
  - Humiliation
  - Isolation
  - Domestic violence
- Pornography preferences
- Video recording sexual acts for humiliation
- How the relationship was terminated

Suspect interviews

- Consider the use of other investigative techniques to establish inculpatory or exculpatory evidence before you interview the suspect.
- Audio and/or video record the suspect's interview.
- If the suspect is in custody or not free to leave, be sure to give him/her their Miranda rights before asking any questions beyond regular booking questions such as name, address and date of birth.
- If the suspect specifically asks for a lawyer, end the interview immediately.
- If the suspect agrees to speak with you, begin with broad questions that the suspect may be more likely to answer and potentially get him/her speaking with you.

- Getting the suspect to agree that he/she was at the scene or in the approximate area at the time of the crime or knows the victim may be good starting questions. Every interview will be dependent on the specifics of each individual case.
- It is important to attempt to get a suspect statement. A claim of consent, or other non-confession, may prove to be very valuable to the case.
- Consider a search warrant for a suspect medical exam and evidence collection, and/or for the suspect's phone and social media accounts. See Chapter 2 for more information on suspect exams.

Exigent circumstances

You may be able to search for and seize evidence based on exigent circumstances in certain instances, but you must document facts to show that searching or seizing was exigent, such as:

- The suspect was attempting to shower or clean up after being informed of an investigation.
- The suspect was trying to discard or destroy physical evidence.
- Technology was being deleted, destroyed or reset to factory conditions.
- Social media information was being deleted.
- Other situations in which you have a reasonable belief that other identified evidence may be discarded or destroyed.

The validity of your claim of exigent circumstances could be determined later by a judge or appropriate court.

Technology review

When you obtain a device, you should always do a physical review of the device in addition to reviewing information obtained through Cellebrite/Axiom.

Consider obtaining a search warrant vs. consent to search. A consent to search may be withdrawn at any time. An example consent to search can be found in Appendix A.

If you identify a technological device as evidence, you should also identify the type of evidence it may contain, such as:

- Images of the act itself
- Dates and times embedded in the images
- Data to corroborate a victim's statement
- Location services
- Search history
- Conversation between victim and suspect
- Admissions of a crime by suspect
- Timeline of victim
- Timeline of suspect
- Heart rates
- Placing a suspect or victim at the crime scene
- Apps and programs
- Other information

Evidence review

Has the following been reviewed and a report written for each item explaining its contents?

- BWC video
- Squad video
- 911 call audio
- Supplemental video such as video surveillance or witness video
- Lab results. Be sure to identify the specific body part(s) a lab report references in your supplemental report. Do not just refer to the item number assigned by the lab.
- FNE exams, emergency room records and forensic interviews. Summarize the highlights from these records and be sure to include the date and time of the exam/interview.
- Jail calls. Search by inmate and any known phone numbers for victim (particularly with domestic CSCs).
- Social media dump with consent of victim.
- Communications review of text messages. Don't just write a supplemental report stating the evidence has been collected. Make sure to analyze the data and record date/time/details (including quotes) of important contacts.

Arrest considerations

Probable cause

Do you have a reasonable belief that a crime has been committed based on the available information and/or totality of the circumstances?

Probable cause requires more than suspicion, but less than absolute certainty.

Arrest warrants

You do not need a warrant to arrest a suspect on a felony crime as long as you have reasonable cause to do so. Minn. Stat. § 629.34, Subds. 1(c) (2) & (3).

Note: Diligent efforts to apprehend the suspect must continue even after an arrest warrant is issued. It is the investigators' responsibility to follow-up on the warrant status and ensure reasonable efforts to locate the suspect are made until the suspect is in custody. Failure to follow up could lead to dismissal of the case.

Chapter 4: Report writing techniques

A thorough law enforcement investigation, a meticulously processed crime scene, and effective victim, witness and suspect interviews are essential to a sexual assault investigation. Equally and sometimes even more important are the reports documenting the sexual assault case. Sexual assault cases may not lead to formal charges or convictions if the investigator's report is poorly written or lacks key information. The following are techniques for writing effective sexual assault reports.

Report contents

Summarize all of the evidence from the investigation
Summarizing all evidence from the investigation — including crime scene findings, forensic examinations of the victim and suspect and statements from all involved — allows the police report to effectively piece everything together and create a clear narrative.

Document the victim's perspective
Do not rephrase or sanitize the victim's statement. Use quotation marks and document actual statements made by the victim.

Document the victim's thoughts and emotions
Include details about the victim's thoughts and emotions before, during and after the assault. This helps recreate the reality of the experience and allows prosecutors, judges and jurors to understand the victim's behavior. It also clarifies actions that may seem counterintuitive but make sense when considering the victim's state of mind.

Document the entire context of force, threat, or fear
Detail all factors that influenced the victim's experience of force, threat or fear, including the suspect's size or strength, history of abuse, physical isolation, the victim's incapacitation due to substances or cognitive disability, dissociation or "frozen fright," and vulnerabilities such as age, inexperience or position of authority.

Use language of non-consensual sex
Terms such as "sexual intercourse," "oral sex" or "performing" can imply consent or mutual participation. A better method of report writing would be to describe the body parts and what the victim was forced to do with the body parts.

Do not call it an "alleged" sexual assault, just like you would not call it an alleged burglary or theft.

Address the victim's use of drugs or alcohol
Drugs and alcohol can increase a victim's vulnerability and increase susceptibility to sexual assault. Investigators must thoroughly document the extent of the victim's impairment during the assault. This is essential for accurately portraying the victim's experience and capturing the context of consent, force, threat or fear in the situation.

To illustrate the victim's level of impairment, it is important to document the number of drinks consumed or the amount of drugs taken. However, additional factors should also be recorded such as the duration of consumption, the victim's body size, tolerance and food intake that day. These details help establish the extent of impairment.

- If the victim vomited or lost bodily functions this should be noted as it indicates impairment levels and may serve as valuable evidence.
- It is also crucial to document whether the victim blacked out or lost consciousness before, during or after the assault.

Witness and suspect interviews can also provide key insights into the victim's state of impairment.

Document the victim's response to the sexual assault

Some witness statements can provide valuable evidence regarding the victim's behavior immediately following the sexual assault. Document the victim's actions as described by the witness, e.g., "hysterical," "unable to stop crying," etc.

Document the suspect's statement

Documentation of the suspect's statement(s) can serve to corroborate the victim's description of the sexual assault. Document any changes or inconsistencies in the suspect's statement.

Document all evidence in a sexual assault case

Document and describe/summarize all evidence associated with the case to include:

- Photos of injuries
- Related photos or videos
- Findings from forensic exams
- All evidence collected
- Associated 911 calls
- All statements
- Lab submissions and results
- Toxicology results from victim collected during the forensic exam
- Polygraph results
- Social media posts
- Cellular phone processing
- Smart devices

Chapter 5: Sexual assault exams

Sexual assault exams, often referred to as forensic medical exams, are a critical part of investigating and prosecuting cases of sexual violence. The body and clothing of both the victim and the suspect can be sources of evidence. These exams not only provide essential evidence but also serve as an opportunity to offer the victim care and support in a deeply vulnerable moment. For law enforcement officers, understanding the role and process of these exams is vital to ensuring a trauma-informed approach to case management. Appendix I and Appendix J provide labeled diagrams of male and female genital structures. Please refer to Appendix H for information on the Health Insurance Portability and Accountability Act (HIPAA) and how it relates to law enforcement investigations.

Medical attention

It is important to help a sexual assault victim receive medical attention for the following reasons:

- It ensures the overall medical well-being of the victim.
- If the assault happened within the last 120 hours, a medical examination is necessary to collect and preserve evidence and to protect the victim's health.
- If more than 120 hours have passed since the assault, there may still be evidence of injury that can be collected and preserved, and the victim may still benefit from health care.
- Even with no evidence of injury, a medical exam should be done for the well-being of the victim.

Be aware of all procedures that will be conducted during the medical exam in case the victim asks you about them:

- Sexual Assault Kit (SAK)
- Overall physical examination
- Sexually transmitted disease testing
- Blood and urine testing
- Possible recreational drug and toxicology screen
- Blood collected up to 48 hours after the incident, urine up to 120 hours after
- Pregnancy test
- Provide emergency contraception
- Mental health intervention

Other important details

Medical expenses for a sexual assault exam are paid for by the Minnesota Department of Public Safety's Office of Justice Programs (OJP) through the Minnesota Sexual Assault Examination Payment Program (Minn. Stat. § 609.35).

- Fees related to other lab work, testing or medicines given by medical providers are not covered by the state.
- Hospital social workers will work with victims to see if they're eligible for help in covering related medical expenses.

Forensic nurse examiners

Forensic Nurse Examiners (FNEs) are registered nurses who have completed specialized education and clinical preparation in the medical forensic care of a patient who has experienced sexual assault or abuse.

- They conduct the sexual assault forensic exam only with the victim and necessary medical personnel. The investigator will not be present for the exam.
- Can have an open conversation with the investigator (you) without violating the Health Insurance Portability and Accountability Act (HIPAA).
- Will take photos of intimate injuries of the victim with the victim's consent.
- Can provide immediate information found during the sexual assault exam.
- Can provide testimony in court in exclusion of the hearsay rule about treatment of reported symptoms of injury, illness or disease during a sexual assault exam.
- CANNOT GIVE AN OPINION TO THE INVESTIGATOR ON WHETHER THE VICTIM IS BELIEVABLE.
- CANNOT GIVE AN OPINION TO THE INVESTIGATOR ON WHETHER THEY BELIEVE THE SEXUAL ASSAULT OCCURED.

Sexual assault kit submission

The sexual assault kit is an important part of any sexual assault investigation. You should:

- Understand the different parts and procedures of the kit (see below).
- Encourage the victim to agree to have a sexual assault exam.
- Know that a sexual assault kit cannot be tested without the victim's consent.
- Do not use the term "rape kit."
- Request a medical professional, preferably a Forensic Nurse Examiner (FNE). The medical provider conducting the sexual assault kit exam should be someone trained in trauma-informed care. Trauma-informed care acknowledges the need to understand a patient's life experiences in order to deliver effective care. It can improve patient engagement, treatment adherence, health outcomes and provider and staff wellness.
- Plan to collect known DNA samples from any consensual partners (within 120 hours) indicated by the victim.

Sexual assault kit components

- Request for Treatment and Release of Medical Records form.
- Storage Consent Form (BCA-F-1000). This form indicates whether the kit is restricted or unrestricted per Minn. 299C.106.
- Sexual Assault Examination Forensic Report Form

    - Victim demographics
    - Examination date and time
    - Assault history taken by medical provider
    - Important information about post-assault actions
    - Assault details to locate potential evidence during exam
    - Most recent consensual sexual encounter
    - Medical history
    - Body surface diagrams (injury)
    - Genital examination
    - Impressions from examination by examiner
    - Evidence items included in sexual assault kit
    - Evidence items not included in sexual assault kit
- Oral swabs
- Rectal and/or anal swabs
- Vaginal/cervical/perineal/external genitalia swabs
- Penile/scrotal/perineal swabs
- Pubic hair combings/mons pubis swabs
- Fingernail/finger swabs
- Known blood sample
- Request urine test (drug-facilitated sexual assault concerns)
- Receipt of Information (Chain of Custody)
- Authorization to assign payment
- Clothing collection. Important: If clothing is taken during the medical exam, you need to help the victim arrange for another set of clothing to be delivered to the medical facility. Many Minnesota hospitals have clothing available for victims of sexual assault from the Assistance League.

The FNE or medical examiner will:

- Secure and package all evidentiary items
- Give larger evidentiary items to you
- Take photos of intimate injuries with the victim's consent
- Ensure all paperwork will be included in the kit
- Seal the sexual assault kit for chain of custody
- Provide you with copy of Sexual Assault Examination Report Form

Suspect exams

Sexual assault kits can also be used to collect evidence from the suspect, but a warrant is required prior to the exam.

These kits are also collected by a FNE and may include the following:

- Sexual Assault Examination Forensic Report Form
    - Suspect demographics
    - Examination date and time
    - Assault history taken by medical provider
    - Body surface diagrams

    - Genital examination
    - Evidence items included in sexual assault kit
    - Evidence items not included in sexual assault kit
- Oral swabs
- Rectal and/or anal swabs
- Vaginal/cervical/perineal/external genitalia swabs
- Penile/scrotal/perineal swabs
- Pubic hair combings/mons pubis swabs
- Fingernail/finger swabs
- Known blood sample
- Receipt of Information (Chain of Custody)

Drug testing

Be aware that drug use may be present in a sexual assault investigation. In sexual assault examinations, toxicology screens are commonly done and can raise unique challenges for the following reasons:

- A victim may fear being arrested for drug use.
- A suspect may have exploited a victim by introducing them to drug use to keep the victim from reporting the assault.
- A victim may not be truthful about their own drug use.
- If you think drug use is making the victim reluctant to report the assault, you should:
    - Reassure the victim that they won't be charged with a crime.
    - Reassure the victim about the importance of the medical exam.
    - Reassure the victim about the importance of the sexual assault investigation.

Use common sense and discretion about proper non-enforcement actions when it appears a victim may have committed a drug offense. You do have discretion when enforcing certain drug offenses. Refrain from immediate criminal enforcement while the victim is receiving sexual assault treatment and consider other alternatives such as consulting a prosecutor or supervisor or issuing a warning.

Track-Kit: The Minnesota sexual assault kit tracking system

Track-Kit, implemented in Minnesota in 2022, is a web-based sexual assault kit tracking system that can be accessed by authorized criminal justice entities and victims. The system protects the anonymity of the victim, including whether/when they choose to check the status of their kit.

The tracking system:

- Tracks the status of a sexual assault evidence kit from the collection site through the criminal justice process, including the initial collection at a health care facility, inventory and storage by law enforcement agencies, and testing at a crime laboratory.

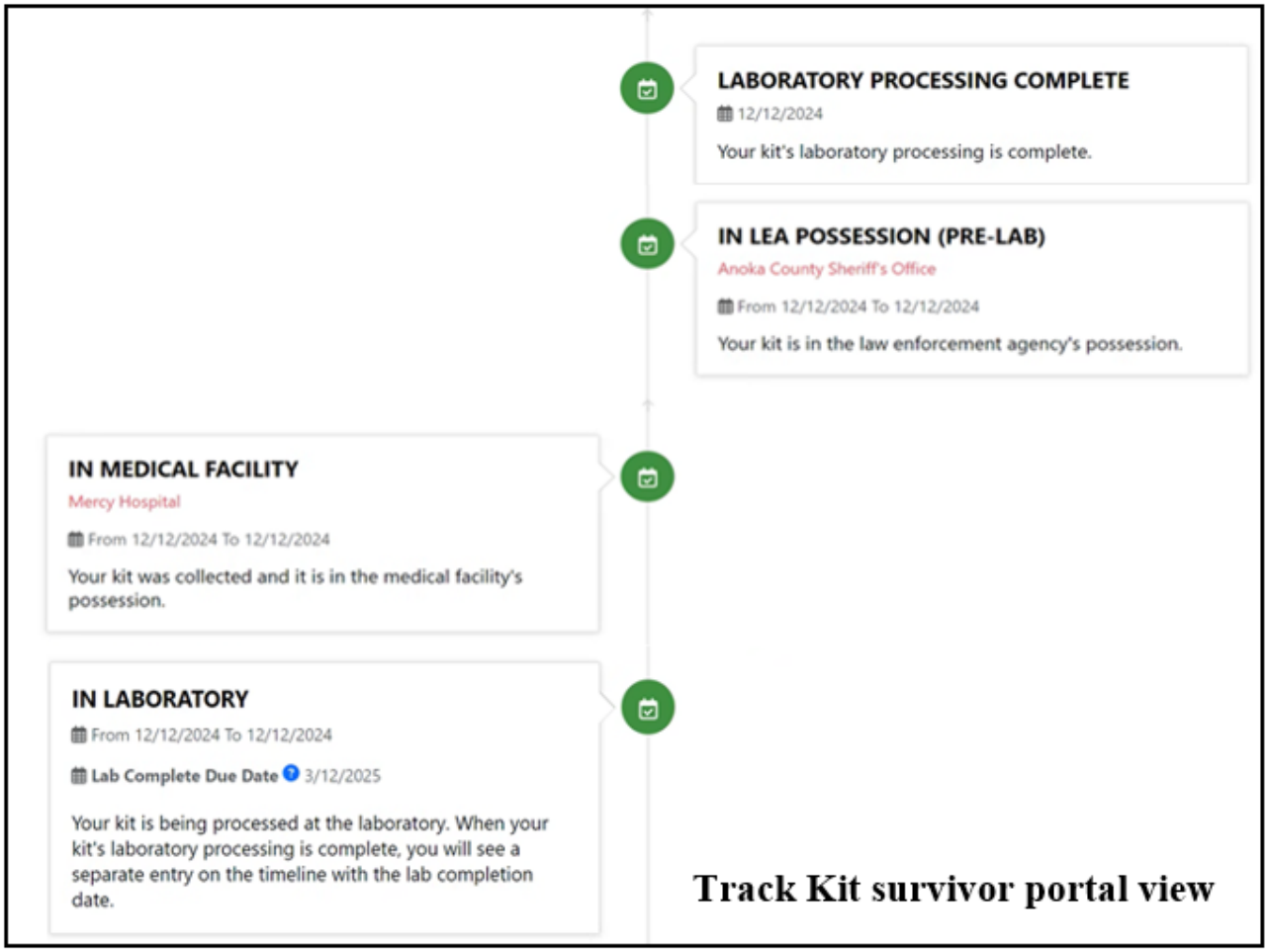
- Allows law enforcement agencies, health care facilities, a crime laboratory and other entities that receive, maintain, store or preserve sexual assault evidence kits to update the status and location of the kits.
- Allows a victim to anonymously track the location and status of their kit (login and password provided by medical personnel at time of kit collection).
- Allows for restricted (unreported) and unrestricted (reported) kits to be entered.

The goal is to provide transparency to the victim about the status of their kit in the process. Victims have control to check real-time kit status or opt-in to receive notifications when a change in status has occurred.

Resources for law enforcement officers

Law enforcement officers, FNEs and victims can access Track-Kit by visiting the following website: https://mn.track-kit.us/

Call or email Tech Support at 888-470-4252 or track-kit.support@invitahealth.com for 24/7 technical assistance.



Track Kit survivor portal view

Chapter 6: Forensic laboratory testing

The forensic laboratory plays a key role in a sexual assault investigation due to the body fluid and DNA exchange inherent in the criminal act. Collecting and submitting relevant items of evidence in a timely manner is crucial to a thorough investigation. Because different laboratories in Minnesota state offer different types of testing it is important to contact the laboratory with questions before submitting evidence. This chapter details the submission process and general testing overview of what can be expected for sexual assault evidence.

Evidence submission

Sexual assault kit submission

Minn. Stat. § 299C.106 requires law enforcement to submit all unrestricted sexual assault examination kits to a forensic laboratory for testing within 60 days of receiving the kit from a medical facility. Minnesota has three forensic laboratories that perform sexual assault kit testing:

- Minnesota BCA Forensic Science Services
- Midwest Regional Forensic Laboratory
- Hennepin County Sheriff's Office Forensic Science Lab

When submitting unrestricted kits for testing, be sure to fill out the respective laboratory submission form for a CSC case. Submission forms differ depending on case type, and valuable information could be left out if the wrong form is used.

Restricted sexual assault examination kits are submitted by the medical facility or law enforcement to the BCA laboratory only. These kits will be stored for at least 30 months and can be converted to unrestricted kits at any time during that storage. Kit conversion requires two forms: a completed BCA laboratory CSC submission form with an agency ICR and a signed consent form indicating the victim has requested testing. Both of these forms can be found on the BCA website.

Toxicology kit submission

The BCA provides a toxicology kit, known as a Drug Facilitated Crime (or DFC) Kit, specific to suspected Drug-Facilitated Sexual Assaults (DFSA) to all Minnesota medical facilities. DFC kits contain a toxicology flow chart to aid in sample collection decision making and should **only** be used in suspected DFSA cases. The kit promotes a victim-centered approach and aligns with recommendations within the forensic toxicology community.

Please note the following instructions:

- Urine is the primary specimen for toxicology testing in DFC cases because it provides a longer window of drug detection: up to 120 hours (five days) after the incident for some drugs.
- Blood samples may be useful if collected within 24 hours of the incident.
- The medical facility will fill out a sample collection sheet found within the DFC kit that includes:
  - Assault date and time
  - Observed and/or reported symptoms
  - Known consumption of alcohol and/or drugs (over-the-counter, illicit or prescription) prior to assault
  - Drugs administered by medical personnel prior to sample collection
  - Sample collection date and time

Restricted toxicology kits will be stored frozen and can be tested within one year of receipt.

The DFC kit instructions, flow chart and additional information are available on the BCA website. The flow chart can also be found in Appendix C.

Other criminal sexual conduct evidence submission

Other evidence can be submitted to the forensic laboratory at the same time as the sexual assault kit or in subsequent submissions under the same case number. If submitting several items together, be aware of the number of items allowed in the respective laboratory's evidence submission policy. Laboratory scientists will typically examine and test the sexual assault kit in the initial round of testing because it is the most intimate item and often provides the most probative information for the case.

Submission form information

Include the following information on a laboratory submission form:

- A brief synopsis of case details
- Number of victims, suspects and possible consensual sexual partners
- Time between event and collection of evidence
- How each item submitted is related to the case (including whom it belongs to or came from)

Criminal sexual conduct forensic testing

DNA

DNA is the chemical blueprint that tells a living organism how to live and grow. DNA is found in almost every cell of an individual's body, inherited by a random mixing of a mother and father's DNA. Forensic scientists look at several locations on a person's DNA that, when combined, result in a DNA profile unique to each individual in the world (with the exception of

identical twins, etc.). DNA can be left behind during sexual assault in many forms, including skin cells, semen, saliva, blood and hair. All of these cells may yield DNA profiles that can potentially be matched to known individuals in the investigation.

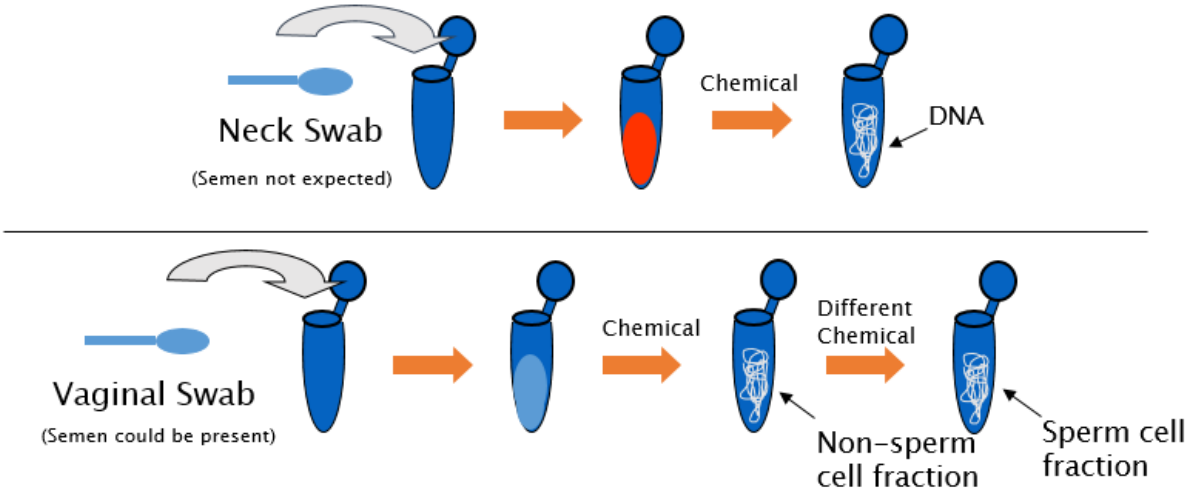
Serology

The presence of body fluids on an item of evidence can help investigators determine what may have happened during a crime. The detection of body fluids as well as the collection of touch DNA samples is often referred to as serology. Minnesota laboratories can test for semen, saliva, urine and blood; though most of these tests are presumptive, meaning it is not a certainty that the specific body fluid is present. Serology tests can, however, help pinpoint an area on an item of evidence that could yield high levels of DNA.

Laboratories are moving away from doing serology on sexual assault kits because these tests consume sample and can impact the chance of obtaining a useable DNA profile. Thus, you may only receive a DNA testing report when a sexual assault kit is submitted to a laboratory for testing.

Extraction techniques

The first step in DNA processing is the extraction of DNA from a submitted sample. The swab or cutting is placed in a tube with various chemicals, and any cells present are digested, releasing DNA into the solution. A special type of extraction called differential extraction can be used on samples where semen is expected. This extraction separates all non-sperm cells (skin, blood, saliva) from sperm cells; providing vital information in sexual assault cases. The resulting fractions can be profiled individually to determine the DNA contributors to each. Differential extractions efficiently separate male sperm DNA from female skin cells collected directly from the female's body.



DNA mixtures

When more than one individual is contributing DNA to a profile, it is referred to as a DNA mixture. The laboratory will indicate the number of contributors to each DNA profile in its report. The more individuals contributing to a profile, the more complex the analysis. Because sexual assaults involve more than one person and evidence is often collected directly from a person's body, evidence often produces DNA mixtures.

CODIS uploads and hits

DNA profiles obtained from sexual assaults can be uploaded to the national database known as the Combined DNA Index System (CODIS) if they meet database criteria. CODIS contains DNA profiles of convicted offenders at the state and national level as well as forensic profiles from other qualifying cases. DNA scientists determine what profiles meet the criteria to be added to the state or national level of CODIS and identify them in the DNA report.

Forensic DNA profiles are searched through CODIS weekly and hits are reported to the investigating agencies. Hits can be to convicted offenders, who will be listed by name in the report, or to other cases in CODIS.

- **Convicted offender hits:** CODIS offender samples cannot be used as evidentiary knowns for comparison to forensic profiles; therefore, a known sample will be requested if not already available to the laboratory. Statistics will not be reported for comparisons to evidentiary profiles until the known sample is processed by the laboratory.

  Note: While a convicted offender sample cannot be used as an evidentiary known, the CODIS hit can be used for probable cause. A known sample must be submitted to and tested by the laboratory before trial.

- **Case-to-case hits:** Contact information for the agency for which the case-to-case hit occurred will be provided in the hit report. Law enforcement follow-up with the agency involved in a hit can be vital to solving the cases. Even if one case seems to have no further investigative leads, sharing case information could benefit the other agency's case.

YSTR

Another DNA technology that can be helpful to sexual assault investigations in which very low levels of male DNA are present is Y-chromosomal testing, or YSTR. YSTR targets the Y chromosome, which is present only in biological males. A profile of the Y chromosome can be developed and compared to male principles in the case.

The Y chromosome is inherited as an entire unit from the biological father; therefore, males from the same paternal line would be expected to have the same Y-chromosomal profile. Because of this, the statistics for a Y chromosome match typically fall within the 1 out of 1000 males range.

Toxicology

A DFSA or DFC occurs when a person is subjected to nonconsensual sexual acts while they are incapacitated or unconscious due to the effect(s) of ethanol, a drug and/or other intoxicating substance and are unable to give consent or resist.

The path of analysis for DFSA or DFC evidence depends on sample type and volume, when the sample was collected in relation to the offense, and case specific observations and reports of symptoms. Refer to the table below for the collection time frames of different DFSA/DFC substances:

Substance	Collection Timeframe
GHB	12 hours
Ethanol (ethyl alcohol or grain alcohol)	24 hours
Drugs	Blood: 24 hours Urine: 120 hours (5 days)

If a sample is collected within 24 hours of the incident, alcohol testing will be completed first due to the volatile nature of the compounds. Results are reported quantitatively (an amount).

Drug testing begins by using a presumptive screening test to determine which, if any, confirmatory tests will be completed. Drugs that are confirmed in blood samples are reported either quantitatively (an amount) or qualitatively (present or not detected) while drugs that are identified in urine samples are only reported qualitatively (present or not detected).

Additional analysis not included in the general screen may also be done based on case details or by request.

Turnaround time

Beginning July 1, 2024, Minnesota forensic laboratories are required in statute to "strive to test the sexual assault examination kit within 90 days of receipt." If a laboratory cannot meet this expectation, the submitting agency will be contacted and informed of the reason for the delay. No other evidence submitted as part of a sexual assault investigation has a state-mandated turnaround time, and laboratory backlogs will vary. Cases can be expedited based on case details, including the age of the victim and/or suspect, the danger to the public, an impending court date, or an active danger to the victim. Please indicate on the case submission form or contact the laboratory if your case meets these criteria.

Evidence return

Evidence will be returned to a submitting agency upon completion of testing as indicated in the final report of the case. Minn. Stat. § 299C.106 requires that law enforcement agencies retain sexual assault evidence kits indefinitely. The laboratory will have removed all evidentiary items from the kit before it is returned to the agency; therefore, they do not need to be stored refrigerated upon return. Other evidence can be stored in a climate-controlled location until trial has completed or according to your agency policies. Any returned toxicology samples (urine and blood) should be stored frozen.

Chapter 7: Advocacy

"Advocates are uniquely positioned to facilitate communication through all stages following a sexual assault, as they work with and through many systems."[1]

Advocates play a critical role in reducing barriers and assisting with the healing process for victims of sexual violence and any secondary victims. On average, a victim discloses to two or three people before deciding whether to receive medical care or report the assault to law enforcement. This is most often due to a fear of retaliation, being doubted or blamed, others finding out, fear/mistrust in the justice system, and not being believed.[2] Connecting a victim to an advocate as soon as possible allows for the victim to receive accurate information on next steps, explore options that are available to them and discuss additional needs. Victims will experience a wide range of responses emotionally, physically and psychologically following a sexual assault. Advocates provide support and connection to sustainability resources, allowing the victims to stay engaged with the criminal justice process.

Community-based advocates

Community-based advocates are often some of the first professionals victims encounter while seeking help when they choose disclose their victimization. Victims also encounter many other professionals and agencies involved in the process. They will speak with police officers and investigators, may undergo a sexual assault examination done by a specialized nurse or other medical professional, meet with prosecutors at various points, and get case updates from system-based advocates, who may or may not take over the support role provided by the community-based advocate. The community-based advocate remains constant throughout the process, and afterward, if the victim so chooses. To be a community advocate, one must:

- Be supervised by a community-based program
- Complete sexual assault counseling training

Community-based program: any office, institution or center offering assistance to sexual assault victims and their families through crisis intervention, medical and legal accompaniment and subsequent counseling. Minn. Stat. § 13.822 subd 1(a).

Sexual assault counselor: a person who has undergone at least 40 hours of crisis counseling training. Minn. Stat. § 13.822 subd 1(b).

When both requirements are met, communication between the advocate and the victim is confidential and protected under judicial privilege.

---

[1] Sexual Assault Multi-Disciplinary Action Response Teams (SMART) Sexual Assault Response Protocol, 2021.
[2] Lonsway, Kimberly, et al. Opening Doors: Alternative Reporting Options for Sexual Assault Victims, 2021

Sexual assault communication data: all information transmitted in confidence between a sexual assault victim and a sexual assault counselor and all other information provided by the sexual assault counselor in the course of providing assistance to the victim. Minn. Stat. § 13.822 subd 1(d).

For an advocate to share information transmitted in confidence:

- The victim must provide permission and the advocate must comply with the community-based program's policy and procedure to obtain a written or verbal Release of Information;
- A court order is received compelling the advocate to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause (Minn. Stat. § 595.02 subd 1(k)); or
- A disclosure of child abuse was made employing the advocate's duty to make a mandated report.

Duties of a community-based advocate

- Provide free, confidential and voluntary services to primary and secondary victims regardless of whether a crime has been reported.
- Provide comprehensive services which may include 24-hour crisis lines and assistance with protection orders, support groups, ongoing education, shelter assistance and safety planning.
- Do not have a time limit on services.
- Maintain the goal of victim empowerment and healing.
- Engage in system enhancement to improve a victim experience and accessibility.
- Provide education to the public on services and victim-centered care.

System-based advocates

System-based advocates are employees of a law enforcement or government agency. There is no statutory definition for a system-based advocate in Minnesota. System-based advocates do not hold judicial privilege and communication is not confidential. They are considered an arm of the prosecutor's office and held to the same ethical standard of disclosure, including disclosing information that is considered exculpatory evidence.

Duties of system-based advocates

- Provide statutorily-mandated free services to primary and secondary victims of a crime after the crime is legally charged.
- Provide comprehensive services which may include guidance through the court process, notification of victim rights and connection to community resources.
- Provide services beginning at the time the crime is legally charged and typically concluding after the criminal justice process is completed.
- Maintain the goal of providing access to information regarding the criminal justice system for the purpose of empowering the victim.

- Provide education to the public and criminal justice professionals regarding victim rights.

Minnesota crime victim rights

- The right to be notified if certain court and correctional events such as the outcome of the case and the release of the offender.
- The right to participate in the prosecution, such as giving a victim impact statement, requesting restitution and attending hearings.
- The right to be informed of plea negotiations and object to plea offers.
- The right to protection from harm, such as requesting a no-contact order and access to safe waiting areas.
- The right to apply for financial assistance such as crime victim compensation emergency funds and reparations.

For a full list see Minn. Stat. Chapter 611A. Crime Victims: Rights, Programs, Agencies.

Purpose of an advocate

Community-based advocacy and system-based advocacy can seem similar, but they serve two distinct, yet vitally important functions. The primary difference between the two roles is that community-based advocates have a legal requirement of confidentiality, provide services regardless of if a victim decides to report the crime to law enforcement, and do not have any timeline on length of services. System-based advocates are an extension of the prosecution, only work with victims whose cases have been charged, and services are generally limited to the length of the criminal case. Due to disclosure requirements, system-based advocates cannot maintain victim confidences. They must share confidential information with the prosecutor who, in turn, may need to disclose it to the defense.

Minnesota crime victim rights

- The right to be notified if certain court and correctional events such as the outcome of the case and the release of the offender.
- The right to participate in the prosecution, such as giving a victim impact statement, requesting restitution and attending hearings.
- The right to be informed of plea negotiations and object to plea offers.
- The right to protection from harm, such as requesting a no-contact order and access to safe waiting areas.
- The right to apply for financial assistance such as crime victim compensation emergency funds and reparations.

For a full list see Minn. Stat. Chapter 611A. Crime Victims: Rights, Programs, Agencies.
A Victim Rights Card can be found in Appendix F.

Chapter 8: Prosecution

The burden of proof for proving criminal cases is "proof beyond a reasonable doubt." "Reasonable doubt" is doubt based on reason and common sense, not speculation. In other words, the evidence must show there is no *reasonable* explanation other than the defendant is guilty of the crime charged. Given this high burden, it is important to present the most complete case possible to the charging attorney. A CSC investigation guide that can aid with case submission for charging can be found in Appendix D.

Charging considerations

Charging attorneys consider a number of factors, including:

- Jurisdiction — Did the crime happen in that county or is there a legal basis to charge in that county
- Ages of the victim and suspect — Impacts the charging level and specific subdivision(s) used
- Specific form(s) and area(s) of sexual contact/penetration
  - Breasts, buttocks, inner thigh, vaginal area, penis
  - Any object(s) used
  - Vaginal penetration, cunnilingus, fellatio, anal penetration
- Consent
- Evidence of sexual or aggressive intent
- Corroboration — The law does not technically require corroboration of a sexual assault victim's report but prosecutors often feel they cannot prove a case without it
- Relationship between the parties
- Any underlying motivations such as custody issues, retaliation, etc.
- Use of alcohol/drugs
- Statute of Limitations concerns (Refer to Chapter 1 for additional information on Minnesota Statute of Limitations)

There is additional potential evidence that charging attorneys consider when reviewing cases for CSC charges. You do not need to have every piece of evidence on this list before presenting a case but the more, the better.

- Recorded interviews and supplemental reports summarizing the interviews
  - All victim interviews including the initial report and follow-up interviews.
  - Outcry interviews, which are interviews of the people to whom the victim first disclosed such as mom, dad, teacher or friends.

    - General witness interviews, e.g., friends present before/during/after, people with knowledge of the relationship between the victim and suspect or the credibility of the victim and/or suspect, bartenders, rideshare drivers, etc.
    - Anticipated defense witness interviews — Make sure to interview all known potential witnesses for the defense.
    - Medical professional interviews
    - Suspect interviews
- Suspect evidence exam
- FNE Report/Child Advocacy Center Report — Provide a supplement detailing important evidence set forth in the report rather than saying the report is in your agency's evidence capture system.
- Medical records — If the victim went in for a FNE exam, they may have been seen in an emergency room first. Get the emergency room records and other medical records pertaining to the case, including initial reports and follow-up medical care.
- All crime lab reports — Provide actual reports and a supplement detailing what was found or not found by the scientists. When referring to DNA findings relating to specific swabs, identify the swab location rather than by the labs item number. It's important for the charging attorney to know which body parts do or do not have suspect DNA on them.
- Digital evidence
    - Provide screenshots of text messages, Snapchats, social media accounts obtained from victim, suspect and/or other witnesses. Capture the date and time, if possible.
    - Provide a supplemental report of significant evidence (or lack thereof) found in forensic technology exams which includes quotes of content, time, and date rather than simply attaching forensic reports or spreadsheets.
    - Provide videos including security footage, home surveillance videos, cell phone video, etc.
- Scene photos — Photos help juries to put the crime in context. Still shots from body worn cameras are often insufficient. Photos are important, even if time has passed and things have changed. Provide the images and let the trial attorney make the call on evidentiary value or strategic impact.
- Injury photos. **Note**: the law does not require proof that the victim resisted.
- 911 call and incident recall.
- Child protection records — Prosecutors have an obligation under *Brady v. Maryland,* 373 U.S. 83 (1963), to disclose child protection records relevant to the case including recorded interviews, social worker notes and reports. Some county attorney offices prefer to get a protective order before the records are disclosed. Please speak with your county attorney's office before collecting them.
- Criminal history records.
- Reports from other CSC-related crimes involving the suspect – charged or uncharged.

Aggravating factors

Some cases involve aggravating factors which, if not a legal element of the charged crime, can be used by prosecutors to seek an enhanced sentence, i.e., a sentence higher than that specified by Minnesota Sentencing Guidelines. The Sentencing Guidelines set out a list of specific situations which can be used to enhance a sentence (Minn. Stat. § 244.10, Subd. 5a). Prosecutors are not limited to that list. Prosecutors often rely upon the following factors when pursuing an enhanced sentence:

- Multiple forms of penetration/contact, e.g., vaginal/penile and vaginal/digital or vaginal/oral or cunnilingus or fellatio, etc.
- Zone of privacy, e.g., the victim's home, bedroom, dorm room, etc.
- Particular cruelty
  - Failure to use a condom
  - Ejaculated on victim's face
  - Gratuitous violence
  - Victim suffered a permanent injury
- Particular vulnerability
  - Substantial size differential between the victim and assailant
  - Presence of children (must have seen, heard and/or otherwise witnessed the assault)
  - Presence of children impeded victim's ability to flee
  - Due to medical condition, such as pregnancy
  - Due to age/infirmity
- Crime is more serious than the typical crime due to it occurring over multiple days and involving multiple offenders
- Defendant has two or more convictions for violent crimes and is a danger to the public
- Defendant has five or more felony convictions and the current crime is part of a pattern of criminal conduct

Post-conviction

Predatory offender registration

Predatory offender registration requires individuals convicted of predatory offenses (i.e., sex offenses), or charged with predatory offenses but convicted of other crimes in the same complaint, to register with the Bureau of Criminal Apprehension. No registration is required if a case is dismissed or defendant is found not guilty.

DNA analysis

A biological sample for DNA analysis must be ordered for all persons convicted of or adjudicated on a sex offense, unless the offender has already provided the required sample. If a defendant was not ordered to provide a DNA sample at the time of sentencing, the defendant must provide the sample prior to release, unless already done.

Appendix A

Consent to search

CONSENT TO SEARCH

You have the right to refuse to give your consent to the authorities to search; anything found may be used against you in a criminal proceeding. You have the right to revoke this consent at any time, either verbally or in writing.

PROPERTY

I, _____, have been advised of my rights to refuse to allow a search of my premises and/or property within my control. I have decided to allow _____ or someone under their direction and control to conduct a complete search and seizure of the following ***property***:

_____
_____
_____
_____
_____

ELECTRONIC DEVICES

I hereby authorize _____ or someone under their direction and control to conduct a complete search and review of the following ***electronic devices*** under my control:

Make/Model	Serial Number	Password	Swipe Code	Swipe Code
_____	_____	_____	1 2 3 4 5 6 7 8 9	1 2 3 4 5 6 7 8 9
_____	_____	_____		
_____	_____	_____		

ONLINE ACCOUNTS

I hereby authorize _____ or someone under their direction and control to conduct a complete search and review of the following ***online accounts*** under my control:

Internet Address/Company	Username	Password
_____	_____	_____
_____	_____	_____
_____	_____	_____

This written permission is being given by me freely and voluntarily and is made without any threats, duress, or promises of any kind. I understand that I may ask for and receive a receipt for all property listed above to which this consent applies. I have read this document and fully understand its contents.

Signature: _____ Date: _____ Time: _____

Law Enforcement: _____ Case Number: _____

Witness Signature: _____ Date: _____

Witness Signature: _____ Date: _____

Appendix B

DNA consent

CONSENT FOR COLLECTION OF KNOWN DNA

I, _____ _,_having been informed of my Constitutional Right to not provide a saliva sample for DNA comparison purposes without a search warrant hereby authorize:

_____and _____, _____ and/or any other duly appointed law enforcement officer to collect buccal swabs of my saliva for DNA Comparison related to:

_____

_____

_____

I understand that consent can be withdrawn by me at any time. This written permission is given by me voluntarily. I have not been threatened nor have any promises of consideration been made to me. I have read this document and fully understand its contents.

_____
(Signed)

_____
(Date)

Witnesses:

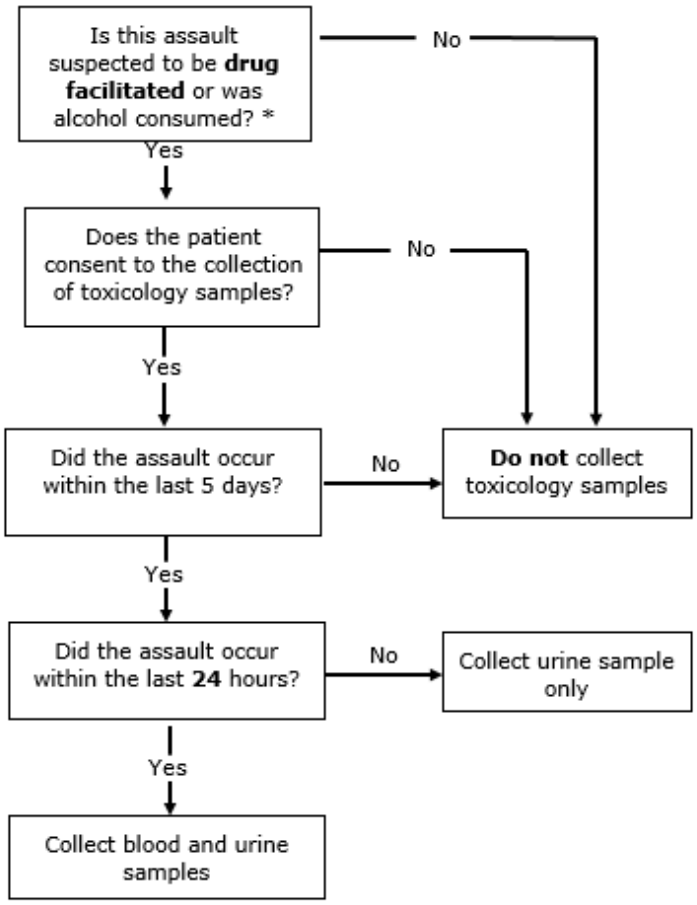
_____ _____
(Signed) (Date)

_____ _____
(Signed) (Date)

Appendix C

DFSA flowchart

Toxicology Flow Chart



***How to determine if a sexual assault may have been drug facilitated?**

- If the patient remembers having a drink but cannot recall what happened for a period of time after consuming the beverage.
- If the patient feels substantially more intoxicated than their usual response to the amount of alcohol consumed or feels intoxicated after drinking a non-alcoholic beverage.
- If the patient feels as though they were assaulted in a sexual manner but cannot recall any or all of the incident.
- If the patient wakes up in a strange or different location without knowing how they got there.

***What are some symptoms?**

- Memory loss including "snapshots" or cameo memories
- Nausea/vomiting
- Drowsiness/ sedation/ loss of consciousness
- Altered motor function/ Inability to move
- Decreased inhibitions
- Dizziness
- Slurred speech
- Loss of muscle control

Appendix D

CSC investigation guide

Case Number: _____ **Investigator**: _____

Initial Response

In-Progress Call

	Yes	No
In-Progress Call:		
Investigator(s) Called Out:		
Phone evidence taken:		
Was scene processed:		
Follow-up needed:		
Scene photographs taken:		
Clothing / Personal property collected:		

Description of Crime Scene

Residence:	
Vehicle:	
Public Place:	
Other:	

If "Other" describe: _____

Victim – Interview & Follow-up

Adult Victim

	Yes	No
Attempted follow-up within 24 hours of report:		
Follow-up interview done:		
Resource referral form provided to victim:		
Advocate invited to attend follow-up interview		
Photo line-up completed:		
Providing ongoing contact during investigation:		

☐ Summary provided to the victim

Juvenile/Vulnerable

	Yes	No
CAC Interview Date: _____		
CAC Video Received/Downloaded:		
CAC Report Received:		
Child Protection Worker: Name:		
Resource referral form provided to guardian:		
Photo line-up completed:		
Provided ongoing contact during investigation:		

Victim – Sexual Assault Forensic Evidence

	Yes	No
SA forensic exam completed:		
SA forensic exam report received:		
SA forensic exam kit collected:		
SA forensic exam kit submitted to BCA: Date: _____		
Kit testing consent form completed:		

	Yes	No
Other evidence collected from victim:		
Submitted to BCA: Date:		
BCA results received: Date:		

If other evidence collected, describe:

_____

Witnesses

	Yes	No
Witness(es) identified:		
Witness(es) interviewed:		
Person victim first disclosed to identified:		
Person victim first disclosed to interviewed:		
Other disclosure witnesses interviewed? *(bartenders, rideshare drivers, neighbors, etc.)*		

Notes:

_____

_____

_____

_____

_____

_____

Suspect Exam

	Yes	No
Suspect identified:		
Interview completed with suspect: Date: _____		
DNA/buccal swab obtained: Date obtained: _____ Date submitted: _____		
Digital evidence collected:		
Other evidence collected from suspect:		

	Yes	No
Suspect exam completed:		
Suspect exam report received:		
Photos from exam collected:		
Suspect exam kit collected:		
Suspect exam kit submitted to BCA: Date submitted: _____		
Suspect STI testing completed:		

If other evidence collected, describe:

_____

Considerations for Suspect Exams:

- ✓ **Identified suspect**
- ✓ **Report w/in 3 days of incident**
- ✓ **Victim cooperation**
- ✓ **Unique physical identifiers**

Search Warrants

	Yes	No	Approved
Residence/Location:			
Electronic:			
Other:			

If "Other," describe:

_____

_____

_____

Investigative Tools

	Yes	No	Approved
Pretext / Calls /Texts:			
Review phone dump:			
Other:			

If "Other," describe:

_____

_____

_____

Evidence & BCA Results

Evidence Collected

	Yes	No
Video:		
Electronic Device:		
Canvas:		
Other evidence		

If "Other," describe: _____

_____

_____

BCA

	Yes	No	Results:
ALCOHOL			
Blood: Date: _____			
Urine: Date: _____			
TOXICOLOGY			
Blood: Date: _____			Presumptive: Confirmed:
Urine: Date: _____			Presumptive: Confirmed:

Clothing (fill in):	Date Results Received:	Results:

Other DNA (fill in):	Date Results Received:	Results:

Case Resolution

	Yes	No	
Case **charged**:			Offense(s):_____
Case **declined**:			Reason:_____
Informed victim/legal guardian of case outcome:			Notes:_____

	Yes	No
Victim unable to be located:		
Case submitted for charging decision:		

	Yes	No
Other:		

If "Other," describe: _____

_____

Additional Notes

_____

_____

_____

_____

_____

Appendix E

Warrant language for suspect exams

(Affiants credentials)

Because this Affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. Your Affiant has set forth only those facts that are necessary to establish probable cause to believe that evidence of violations of Minnesota Statues (add in which statute fits or multiple statutes) has occurred, and necessary to support the requested search warrant. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.

I am asking to search the person of **(SUSPECT NAME & DOB)** and to perform a Forensic Evidence Collection Exam on him, within (County), MN, for the collection of evidence as it relates to a sexual assault, to include: (NAME OF TEST ONLY). These tests may tend to prove or disprove that **(VICTIMS INITIALS)** was sexually assaulted by **(SUSPECTS NAME).**

Your Affiant requests the court grant the staff of the (Whoever is at the Hospital/Jail that will be assisting in the execution of the warrant) to use reasonable force — only if needed — in order to perform a Forensic Evidence Collection Exam and DNA collection on (SUSPECT NAME & DOB).

All medical records relating to the Forensic Evidence Collection Exam.

In addition, if the SANE nurse performing the examination discovers an abnormality on (SUSPECT NAME & DOB) body, such as: bite marks, scratches, foreign debris found on the body, or any other signs of an assault, they will be permitted to process the area with the test that they deem necessary to obtain any potential evidence.

(List each exam requested as well as use of force, medicals records, and well as SANE nurse additional examination in list of evidence to be seized box in eCharging)

Based on my experience, training, literature and published research, I know that all evidence gathered during a sexual assault investigation can potentially be used to support one or more primary investigative purposes. This evidence can identify or exclude a suspect, establish recent sexual contact, corroborate force, threat, fear, or incapacitation and corroborate statements obtained by the victim, suspect and witnesses. Suspect exam documentation can also corroborate information that a victim provides about sensory experiences during the sexual assault, such as the smell of cigarettes, body odor, aftershave, and bad breath. I also know that a delay in a forensic examination will result in the loss of evidence over time, either because of normal everyday hygiene activities such as urinating, defecating, cleansing areas of the body or treatment for injuries that result in the destruction of evidence.

(List above statement prior to probable cause portion of the warrant)

The facts establishing the grounds for issuance of a search warrant are as follows:

(**SUSPECT**) was arrested on (**DATE/TIME**), by (add your agency), and is currently in-custody at the time of this warrant. Based on my training and experience working sex crimes investigations, both suspects and victims in sexual assault cases, can retain biological and trace evidence on or inside their body for a period up to 5 days, or 120 hours, and in some cases longer, however, the opportunity to document injuries is much longer, depending on the amount of force involved in an assault. (**SUSPECT**) was arrested approximately (**TIME**) after the sexual assault was said to have occurred. I am asking to search the person of (**SUSPECT NAME & DOB**) and to perform a Forensic Evidence Collection Exam on him, within Ramsey County, MN, for the collection of evidence as it relates to a sexual assault, to include: (**SELECTED TEST FOR WARRANT NAMED AGAIN WITH EXPLANATION**). This examination may establish what type of sexual contact occurred and whether there is any evidence of force **(SUSPECT NAME)** from the incident in (add city).

ANAL & RECTAL SWABS (RARE CIRCUMSTANCES FOR MALE TO FEMALE SEXUAL ASSAULT)

I am asking for an anal and rectal swab for DNA analysis. When an individual's mouth, fingers, or penis contact another individual's anus during a sexual act there may be DNA from semen, skin cells, and/or saliva. The rectal swab will be an ano scope exam, this may extract DNA from semen, skin cells, and/or saliva from his rectum.

BODY INSPECTION/PHOTOGRAPHS

I am asking for a full body visual inspection for signs of demonstrable injury, as well as any tattoos, scars, or body abnormalities. This inspection is necessary to assess possible injuries that need to be treated, provided medical care, and to document any evidence of sexual contact or physical trauma. If there is evidence present I am asking that the area be photographed for documentation purposes. If deemed necessary by nurse, additional swabs will be collected during exam.

BLOOD SAMPLE/DRAW

I am asking for a blood sample for DNA analysis from **(SUSPECT NAME)**. When an individual's mouth has contacted another individual's genitalia, a DNA Buccal Cell swab sample will be contaminated. During this assault **(VICTIM INTITIALS)** stated that **(SUSPECT NAME)**'s mouth contacted her genital area with his mouth. This DNA comparison may tend to prove or disprove that **(VICTIM INITIALS)** was sexually assaulted by **(SUSPECT NAME)**.

DNA BUCCAL CELL SWABS

I am asking for Buccal Cell samples for DNA analysis. Specifically, the collection of a "known" DNA sample from the subject of the SAE. The swab/sample then may be compared to possible DNA recovered from the body of **(VICTIM INITIALS)**. This DNA comparison may tend to prove or disprove that **(VICTIM INITIALS)** was sexually assaulted by **(SUSPECT NAME)**.

FINGERS & FINGERNAIL SWABS

I am asking for the fingers and fingernails of **(SUSPECT NAME)** be swabbed for touch DNA. Touch DNA is the body fluids or epithelial cells transferred from one individual to another. This transfer can occur through touch, speak, cough, sneeze, or other indirect contact. **(VICTIMS INITIALS)** stated that, during the assault, **(SUSPECT NAME)** grabbed or scratched her neck, or otherwise held her down.

HAND SWABS (BOTH HANDS)

I am asking for both hands of **(SUSPECT NAME)** be swabbed for touch DNA. Touch DNA is the body fluids or epithelial cells transferred from one individual to another. This transfer can occur through touch, speak, cough, sneeze, or other indirect contact. **(VICTIMS INITIALS)** stated that, during the assault, **(SUSPECT NAME)** grabbed or scratched her neck, or otherwise held her down.

PENILE, PENILE SHAFT, & GLANS PENIS SWABS

I am asking for a penile, penile shaft, and glans penis to be swabbed for DNA analysis. When an individual's penis contacts another individual's body during a sexual act there may be DNA from vaginal secretion, skin cells, and/or possibly saliva. **(VICTIMS INITIALS)** stated that **(SUSPECT NAME)**'s penis entered her body, mouth, vagina, or anus.

PUBIC HAIR COMBINGS/MONS PUBIS SWABS

I am asking for the combing of pubic hair or the swabbing of mons pubis. Combing of the pubic hair is done to check for any foreign hair that is not **(SUSPECTS NAME)**. If the pubic hair is too short, or the individual is without hair, the swabbing of his mons pubis may show DNA from **(VICTIMS INITIALS)**'s vaginal secretion, skin cells, and possibly saliva.

SCROTAL SWABS

I am asking for scrotal swabs of **(SUSPECTS NAME)**. A scrotal swab is taken because the penis lays against the scrotum and may have genitalia secretion, skin cells, and possibly saliva.

ORAL SWABS

I am asking that an oral swab be completed on **(SUSPECT NAME)**. An oral swab is taken when it is alleged that an individual's mouth has contacted another individual's genitalia. The oral swab may show **(VICTIMS INITIALS)** DNA inside the mouth of **(SUSPECT NAME)** from genitalia secretion and skin.

URINE SAMPLE

I am asking for a urine draw for the testing of the sexually transmitted diseases of gonorrhea and chlamydia. These are the two most commonly transmitted diseases during oral, anal, and vaginal sex. Signs and symptoms from both diseases can begin to appear between 1 to 3 weeks from initial transmission. But in some cases, it can appear months later. More importantly, depending on what stage the infection is in during transmission, signs and symptoms can disappear after several days. In

many sexual assaults cases the victim is infected but isn't aware they have been infected until well after the incident.

SWABS FROM THE VAGINA, CERVIX, & PERINEUM (FEMALE SUSPECT ONLY)

I am asking for swabs from the vagina, cervix, and perineum from (**SUSPECT NAME**). Perineal swabs are external genitalia swabs that may contain DNA when the ejaculate drips out of the vagina, or when ejaculate is transferred from the vagina to the external genitalia as the penis is thrusting in and out of the vagina. If there was digital penetration of the vagina and/or digital manipulation of the external genitalia there may be skin cells left behind. The forensic nurse will obtain swabs from the vagina, cervix, and perineum (external genitalia) that can be tested for DNA.

In addition, if the SANE nurse performing the examination discovers an abnormality on (Suspect)'s body, such as: bite marks, scratches, foreign debris found on the body, or any other signs of an assault, they will be permitted to process the area with the test that they deem necessary to obtain any potential evidence.

Your Affiant requests the court grant the staff of the (Whoever is at the Hospital/Jail that will be assisting in the execution of the warrant) to use reasonable force — only if needed — in order to perform a Forensic Evidence Collection Exam and DNA collection on (**SUSPECT NAME**).

I am also requesting that (Hospital) turn over all evidence, medical records, and lab results related to the Forensic Sexual Assault Exam performed on (**SUSPECT NAME & DOB**).

Appendix F
Victim rights card

VICTIM RIGHTS AND INFORMATION – ENGLISH

Rights and Services for All Crime Victims

You have the right to apply for financial help for losses resulting from a violent crime. This assistance does not cover property losses. For application and information, call 651-201-7300. Outside the Twin Cities area call: 888-622-8799 or go to the OJP Website: ojp.dps.mn.gov. TTY: 651-205-4827.

You have the right to request that the law enforcement agency withhold public access to data revealing your identity. The law enforcement agency will decide if this is possible.

You have the right, if an offender is charged, to be informed of and participate in the prosecution process, including the right to request restitution (money that is court-ordered from the offender and paid to the victim).

If you feel your rights as a victim have been violated, or if you do not understand your rights or the information presented here contact the Crime Victim Justice Unit at 651-201-7310, 800-247-0390, or cvju.ojp@state.mn.us.

Rights of Domestic Abuse Victims

You can ask the city or county attorney to file a criminal complaint.

You also have the right to go to court and file a petition requesting an Order for Protection from domestic abuse. The order would include the following:

- an order restraining the abuser from further acts of abuse;
- an order directing the abuser to leave your household;
- an order preventing the abuser from entering your home (or a reasonable area around your home), school, business or place of employment;
- an order awarding you or the other parent custody of/or visitation of your minor child or children; or
- an order directing the abuser to pay support to you and the minor if the abuser has a court order to do so.

You also have the right to notification if prosecution of the case is declined or criminal charges are dismissed.

For help in finding local assistance with Orders for Protection or Harassment Restraining Orders, contact:

Minnesota Day One Crisis Line: Call 866-223-1111 or text 612-399-9995. **Click here** for website.

Finding Help

To find help, CLICK HERE, or contact your local law enforcement agency.

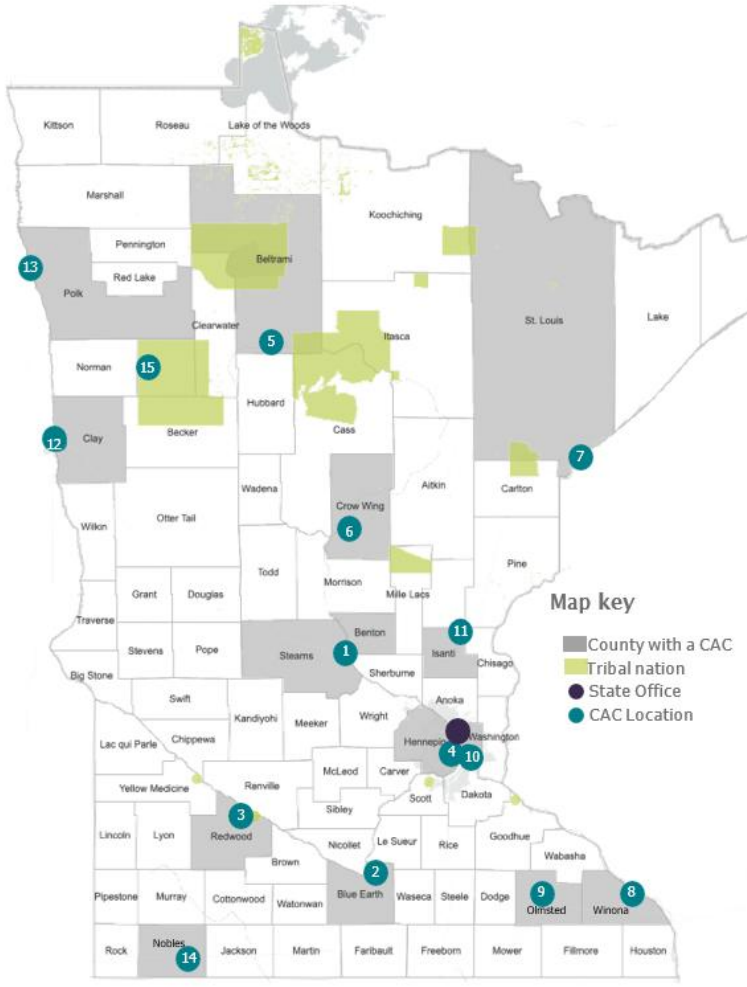
Statutory Notification Requirements for Law Enforcement

Law enforcement officers must distribute an initial notice of rights and resources to all crime victims at first contact. Minnesota Statutes section 611A.02, subd. 2(b).

Law enforcement officers must provide additional information in the initial notice to all domestic abuse victims. Minnesota Statutes section 629.341, subd. 3.

Appendix G

Children's advocacy centers map



MINNESOTA CHILDREN'S ALLIANCE

Children's Advocacy Centers provide:

- Multidisciplinary team investigations
- Specialized medical examinations
- Trauma-informed mental health
- Advocacy
- Family support

Locations

1. Central Minnesota Child Advocacy Center
2. Child and Family Advocacy Center of South Central Minnesota
3. Child's Place Children's Advocacy Center
4. CornerHouse
5. Family Advocacy Center of Northern Minnesota
6. Family Advocacy Center of Northern Minnesota – Satellite
7. First Witness
8. Matty's Place
9. Mayo Center for Safe and Healthy Children and Adolescents
10. Midwest Children's Resource Center
11. North Star Family Advocacy Center
12. Red River Children's Advocacy Center
13. Red River Children's Advocacy Center – Satellite
14. Southwest Crisis Center, Children's Advocacy Program
15. White Earth Band of Ojibwe

Minnesota Children's Alliance | minnesotachildrensalliance.org

Appendix H

HIPPA exceptions for law enforcement

Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule: A Guide for Law Enforcement

What is the HIPAA Privacy Rule?

The Health Insurance Portability and Accountability Act of 1996 (*HIPAA*) Privacy Rule provides Federal privacy protections for individually identifiable health information, called protected health information or PHI, held by most health care providers and health plans and their business associates. The HIPAA Privacy Rule sets out how and with whom PHI may be shared. The Privacy Rule also gives individuals certain rights regarding their health information, such as the rights to access or request corrections to their information.

Who must comply with the HIPAA Privacy Rule?

HIPAA applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically (e.g., billing a health plan). These are known as covered entities. Hospitals, and most clinics, physicians and other health care practitioners are HIPAA covered entities. In addition, HIPAA protects PHI held by business associates, such as billing services and others, hired by covered entities to perform services or functions that involve access to PHI.

Who is not required to comply with the HIPAA Privacy Rule?

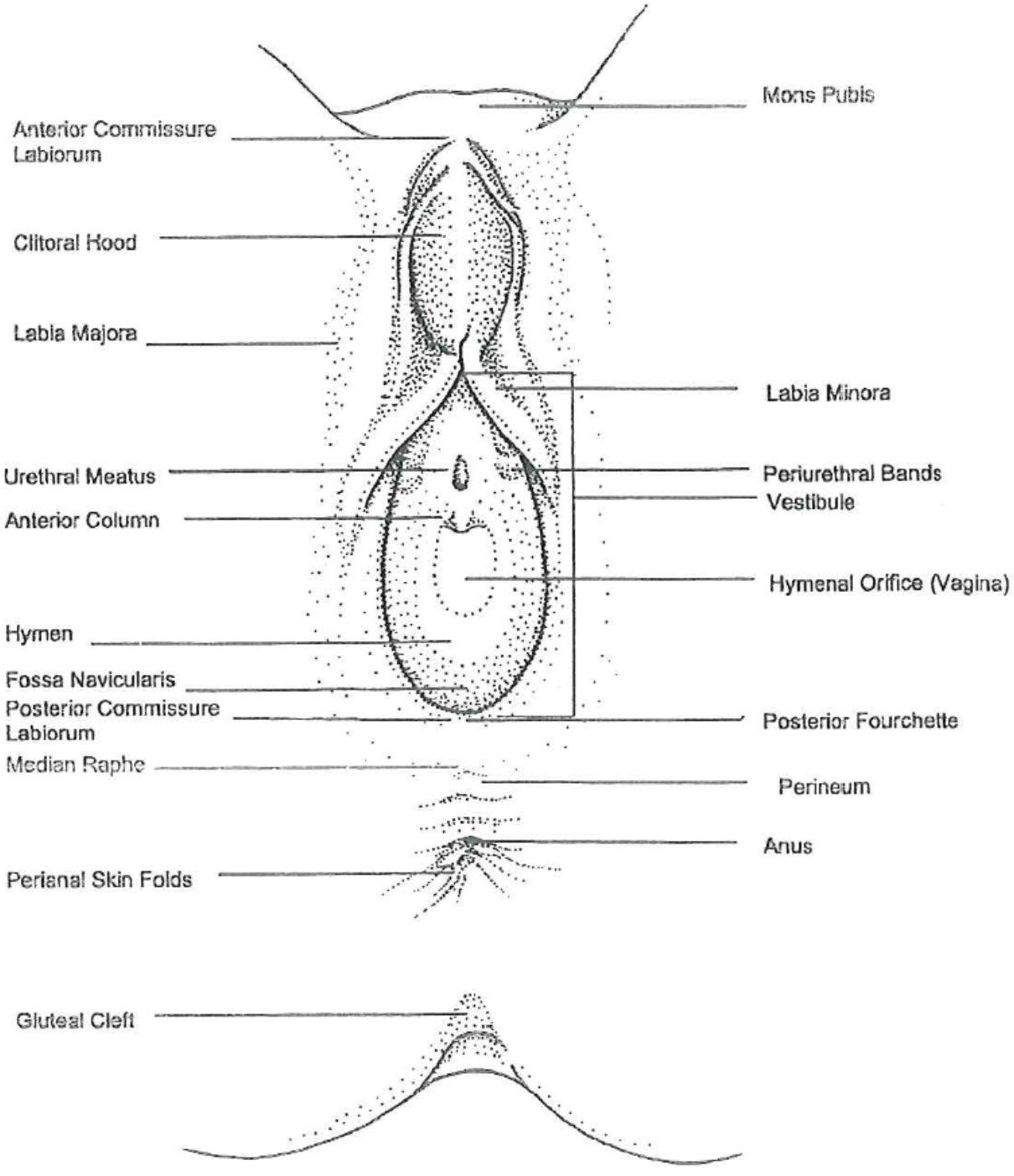
Many entities that may have health information are not subject to the HIPAA Privacy Rule, including:

- employers,
- most state and local police or other law enforcement agencies,
- many state agencies like child protective services, and
- most schools and school districts.

While schools and school districts maintain student health records, these records are in most cases protected by the Family Educational Rights and Privacy Act (FERPA) and not HIPAA. HIPAA may apply however to patient records at a university hospital or to the health records of non-students at a university health clinic.

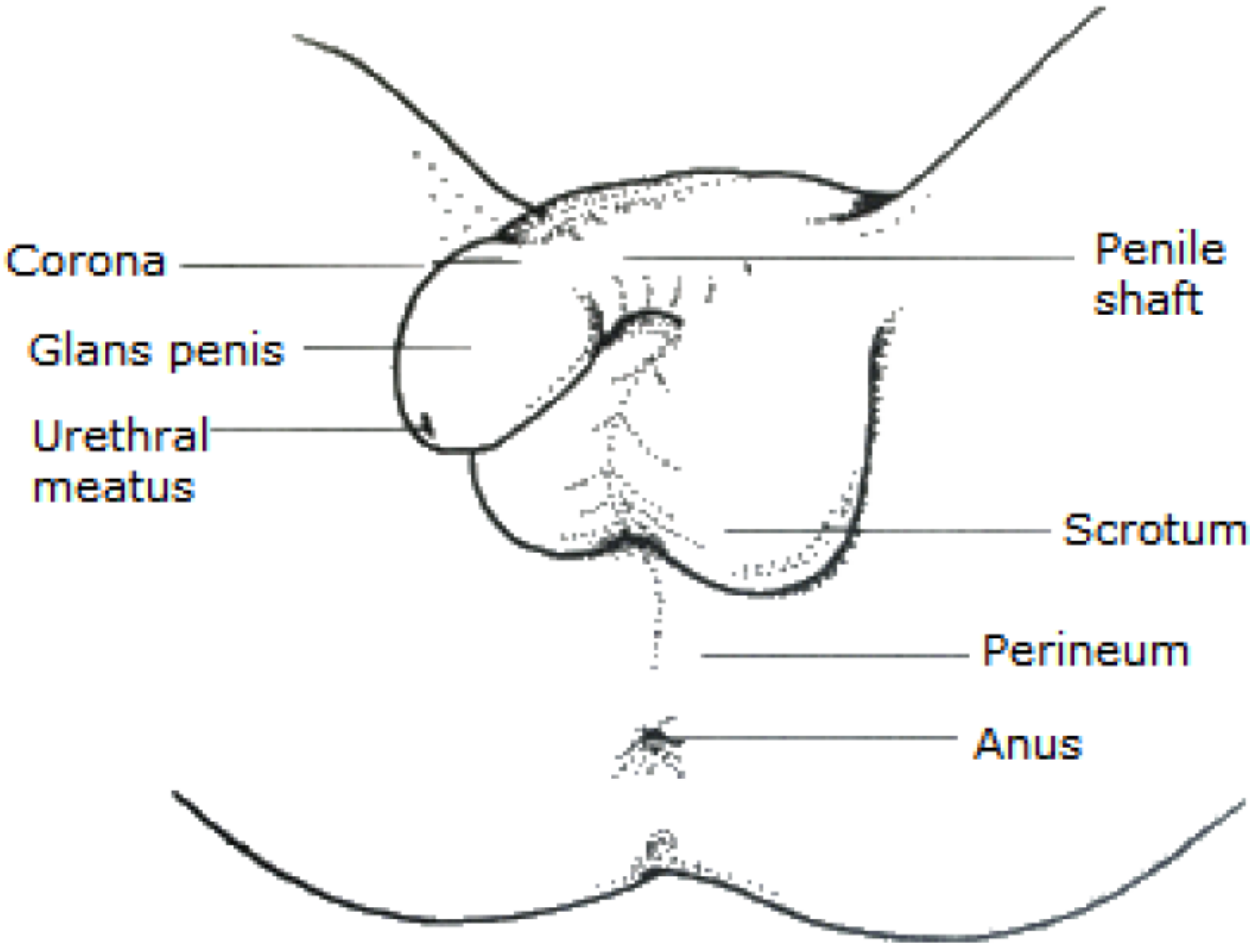
Appendix I

Labeled diagram of female genital structures



Appendix J

Labeled diagram of male genital structures



Resources

Minnesota Government Access (MGA)
Minnesota's Adult Abuse Reporting Center (MAARC)
BCA evidence submission
BCA restricted and non-restricted forms
MN Track-Kit
Minnesota VINE
Crime Victim Rights
End Violence Against Women International (EVAWI)
National Institute of Justice (NIJ)
National Sexual Violence Resource Center (NSVRC)
Rape, Abuse & Incest National Network (RAINN)
Minnesota Standard Consent Form to Release Health Information
Victim-Service-Directory-Sorted-by-County