

## 2. Facilities

Recommendations at a glance for jurisdictions to build the capacity of health care facilities to respond to sexual assault cases:

- Recognize the obligation of health care facilities to serve sexual assault patients.
- Ensure that exams are conducted at sites served by examiners with advanced education and clinical experience.
- Communities should explore what is best for them regarding locations of exam sites.
- Communities may wish to consider developing basic requirements for designated exam sites.
- Promote public awareness about designated exam sites, ensuring information is disseminated to appropriate agencies and community members. Encourage first responders to work together to assist victims in using these sites.
- If a transfer from one health care facility to a designated exam site is necessary, use a protocol that minimizes time delays and loss of evidence and addresses patients' needs. However, avoid transferring these patients where possible.

**Recognize the obligation of health care facilities to serve sexual assault patients.**<sup>111</sup> It is essential that all sexual assault patients who present to health care facilities be thoroughly evaluated. Treating injuries alone is not sufficient in these cases. Staff who examine these patients must be educated and clinically prepared to collect evidence and document findings while maintaining the chain of custody. They should be able to coordinate crisis intervention and support for patients, as well as provide STI evaluation and care, pregnancy assessment, and discuss treatment options, including reproductive health services. They must be aware of and follow jurisdictional reporting policies, and be able to provide court testimony if necessary.

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO)<sup>112</sup> requires emergency and ambulatory care facilities to have established policies for identifying and assessing possible victims of rape and other sexual molestation. It also requires staff to be trained on these policies. As part of the assessment process, JCAHO requires these facilities to define their responsibilities related to the collection and preservation of evidentiary materials.<sup>113</sup> Sexual assault examiner programs are helping many health care facilities to carry out these requirements. Facilities should also familiarize themselves with the Federal Emergency Medical Treatment and Active Labor Act (EMTALA), which has provisions pertaining to the ability of hospitals to turn away patients with emergency medical conditions.<sup>114</sup>

**Conduct exams at sites served by specially educated and clinically prepared examiners.** Some jurisdictions designate specific facilities as exam locations because they employ or have ready access to specially educated and clinically prepared examiners, as well as the necessary space, equipment, supplies, and policies to facilitate the exam process. Jurisdictions may rely on examiner programs to serve multiple exam sites within a specific area.<sup>115</sup> Communities can benefit from designated exam facilities and examiner programs that use specially educated and clinically prepared examiners to conduct the exam because they:

- Increase the likelihood of a state-of-the-art examination;
- Enhance a coordinated team approach;

<sup>111</sup> This and the next paragraph were drawn from L. Ledray, *Evidence Collection and Care of the Sexual Assault Survivor: The SANESART Response*, 2001, p. 1.

<sup>112</sup> JCAHO standards for accreditation address a health care organization's level of performance in specific areas—not just what the organization is capable of doing, but what it actually does. The standards set forth maximum achievable performance expectations for activities that affect the quality of care. These standards are developed in consultation with health care experts, providers, measurement experts, purchasers, and consumers, and usually are updated every 2 years. (Drawn from [www.jcaho.org/pms/index.htm](http://www.jcaho.org/pms/index.htm). See [www.jcaho.org](http://www.jcaho.org) for more information on JCAHO.)

<sup>113</sup> Information on these requirements was drawn from [www.sasafefamily.com](http://www.sasafefamily.com).

<sup>114</sup> 42 U.S.C. § 1395dd. See <http://www.emtala.com> for more information about EMTALA.

<sup>115</sup> A mobile examiner program may be based in a health care facility—in addition to providing services at that facility, it also may contract with other exam sites to provide services as requested. Such a program may also be independent, with administrative offices only, and solely contract with exam sites to provide examiner services.

- Encourage quality control (e.g., through use of competent and dedicated examiners, established procedures for evidence collection, and standards for medical care); and
- Increase the quality of care for patients and attention to their needs.

**Explore possibilities for optimal site locations.** SARTs (or involved agencies) should determine where exams should be conducted. Some factors to consider when identifying sites include safety and security for patients and staff, physical and psychological comfort for patients, capacity to accommodate victims with disabilities,<sup>116</sup> availability of examiners with advanced education and clinical experience, access to a pharmacy for medication, access to medical support services for care of injuries, access to lab services, and access to the supplies and equipment needed to complete an exam.<sup>117</sup> Decisions about site location should reflect the needs of victims (e.g., for accessible care close to their home and local referrals), what is most efficient for the multidisciplinary response team, and the need to maintain the neutrality and objectivity of examiners. Designated facilities may be in hospitals, health clinics, mobile health units, or other alternative sites, including family justice centers.<sup>118</sup> <sup>119</sup>The majority of medical forensic exams are conducted in hospital emergency departments. This location typically offers some level of security, is open 24 hours a day, and provides access to a wide array of medical and support services. Clinical staff often have the experience and expertise to perform the exam and collaborate with appropriate disciplines. Some jurisdictions have or are developing specialized hospital or community-based examiner programs.<sup>120</sup>

SARTs may need to decide whether a local, regional, or State/Territorial system of designated facilities best serves community needs. Some issues that might impact this decision include community demographics and geography; the need for and availability of specialized services; availability of local health care facilities; local capacity to secure competent examiners and necessary space, equipment, and supplies; willingness of involved disciplines to coordinate with a local facility or examiner program; distance to/from regional or State/Territorial facilities; and service capacity of regional or State/Territorial facilities. Communities are encouraged to first consider using local designated exam sites. However, some may ultimately opt for regional- or State/Territorial-level facilities. For example, a small State or sparsely populated region may establish one or more designated facilities to serve all of its localities.

Exam facilities and examiners that serve at the local level may benefit from networking with examiners in other facilities or areas for support for peer review of medical forensic reports, quality assurance, and information sharing (e.g., on training opportunities, practices, and referrals for patients).

**Communities may wish to consider basic requirements for designated exam sites, such as:**<sup>121</sup>

- The site will be within a reasonable distance from any point in the area it serves (“reasonable” is locally defined);
- The site will promptly alert the SART, if one exists, when sexual assault patients arrive;
- Urgent or emergent physical injuries will be treated immediately;
- Responding examiners will be competent in their knowledge and skills;
- The site will arrange for certified interpretation as needed in patients’ preferred languages and/or obtain devices that facilitate communication for individuals with communication disabilities.

<sup>116</sup> Title II and Title III of the Americans with Disabilities Act explains requirements for facilities in accommodating persons with disabilities (which may vary depending on the type of facility). Title II prohibits discrimination against persons with disabilities in all programs, activities, and services of public entities. Title III requires places of public accommodation to make reasonable modification in their policies, practices, and procedures in order to accommodate individuals with disabilities. See [www.usdoj.gov/crt/ada](http://www.usdoj.gov/crt/ada) for related information and resources.

<sup>117</sup> Drawn from L. Ledray, *SANE Development and Operation Guide*, 1998, p. 35–36.

<sup>118</sup> Particularly on tribal land that is devoid of or a significant distance from a hospital, Indian Health Service (IHS) facilities should consider securing and maintaining examiners and necessary space, equipment, and supplies to conduct these exams. Ideally, all IHS facilities should have examiners and a minimum standard for examiner training.

<sup>119</sup> For more information on the President’s Family Justice Center Initiative, see <http://www.ojp.usdoj.gov/vawo>.

<sup>120</sup> The pros and cons of developing hospital versus community-based examiner programs are discussed in more detail in L. Ledray’s *SANE Development and Operation Guide*, 1998, p. 35–9; L. Ledray’s *Sexual Assault: Clinical Issues, SANE Program Pros and Cons, Journal of Emergency Nursing*, 23(2), p. 183; and in K. Littel’s *SANE Programs: Improving the Community Response to Sexual Assault Victims*, pp. 10–1.

<sup>121</sup> Adapted from Pennsylvania’s *SART Guidelines*, 2002, p. 21.

- Patients will be provided with a comprehensive medical forensic exam and resources to address their immediate emotional and psychological needs;
- The site will provide a private, secure, and quiet waiting area for patients and for personal support persons accompanying them;
- The site will provide a private and secure setting for the investigative interview;
- The site will provide a private exam room and other measures to assure patients' privacy;
- The site will have a bathroom (preferably with shower facilities) available for patients' use following completion of the exam;
- The site or examiner program that serves the site will have/provide proper equipment and supplies to facilitate a comprehensive exam ("proper equipment and supplies" are locally defined);
- The site or examiner program that serves the site will have a mechanism to ensure evidence collection kits are up to date;
- Patients will be offered medications for possible exposure to sexually transmitted infections;
- Patients will be offered information about how exams are paid for in their jurisdiction and reimbursement sources (if they exist) for related expenses that are their responsibility; and
- Site billing departments will adhere to proper coding and billing practices for sexual assault cases, as determined by the facility and informed by jurisdictional policy.

If designated facilities or sites served by examiner programs are selected, their success depends on getting information about them to victims and agencies that provide immediate response or refer victims for treatment and evidence collection. At a minimum, the list of designated exam sites should be provided to all local hospitals, law enforcement agencies, emergency medical services, sexual assault victim advocacy programs, and protective services. Promoting community public awareness about these sites is also important given that victims may first disclose an assault to family members, friends, teachers, faith-based leaders, employers, coworkers, and others. In addition, success will depend on interagency cooperation in explaining facility options to victims and transporting them to designated exam sites (with their permission). Law enforcement representatives and advocates may need guidance on how to recommend an exam location to victims without mandating that they go to a specific site.

**If transferring the patient from one health care facility to a designated site is necessary, use an established protocol that minimizes time delays and loss of evidence while addressing patients' needs.**<sup>122</sup> Avoid transferring sexual assault patients where possible. Every transfer can destroy evidence and cause patients further stress. However, if a sexually assaulted individual arrives at a health care facility that, for some reason, is not able to provide a medical forensic exam, interagency transfer procedures must be in place to transfer that individual to the nearest designated exam site. Evidence should be preserved when examining, treating, or transferring patients. If there are acute medical or psychological injuries that must be treated immediately, treatment should be provided at the initial receiving facility. It may be helpful to offer patients support and advocacy from advocates at both the receiving facility and exam site. A copy of all records, including any X-rays taken, should be transported with patients to the exam facility. (However, it may not be necessary to send all medical records if patients' medical needs are met before they are transferred to a nonmedical exam site for evidence collection.) All health care facilities receiving Federal funds, including Medicare and Medicaid payments, are required to screen patients medically before transferring them to another health care facility.<sup>123</sup>

Patients have a right to decline a transfer. They should be aware, however, of the impact of refusing transfer, as it may negatively affect the quality of care, the usefulness of evidence collection (if it is collected at all), and, ultimately, any criminal investigation and/or prosecution. They should understand that declining a transfer might also be used to discredit them in court.

<sup>122</sup> This section was drawn from the *North Dakota Sexual Assault Evidence Collection Protocol*, 2001, p. 12, and the *Texas Evidence Collection Protocol*, 1998, p. 14.

<sup>123</sup> Emergency Medical Treatment and Active Labor Act, 42 U.S.C. 1395dd.