

# 1. Sexual Assault Forensic Examiners

Recommendations at a glance for jurisdictions to build capacity of examiners to conduct these exams:

- Encourage the development of specific examiner knowledge, skills, and attitudes.
  - Encourage the advanced education and supervised clinical practice of examiners, as well as certification for nurses who are examiners.
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It is critical that health care providers conducting the sexual assault medical forensic exam are committed to providing compassionate and quality health care, collecting evidence in a thorough and appropriate manner, and testifying in court if needed. Their commitment should be grounded both in an understanding that sexual assault is a serious crime that can have profound, negative effects on those victimized and in recognition of the role of advanced education and clinical experience in building competency to perform the exam.

A growing trend across the United States is the use of sexual assault nurse examiners (SANEs) to conduct the exam. SANEs are registered nurses who receive specialized education and fulfill clinical requirements to perform these exams. Some nurses have been certified as SANEs—Adult and Adolescent (SANE—A) through the International Association of Forensic Nurses (IAFN).<sup>104</sup> Others are specially educated and fulfill clinical requirements as forensic nurse examiners (FNEs), enabling them to collect forensic evidence for a variety of crimes. The terms “sexual assault forensic examiner” (SAFE) and “sexual assault examiner” (SAE) are often used more broadly to denote a health care provider (e.g., a physician, physician assistant, nurse, or nurse practitioner) who has been specially educated and completed clinical requirements to perform this exam.

All communities should strive to ensure that victims of a recent sexual assault have access to specially educated and clinically prepared examiners to perform the medical forensic exam. As much as possible, examiners should be permanent rather than on temporary assignment in a jurisdiction. It can be challenging for examiners who are temporary (e.g., at an Indian Health Service facility) to understand needs of victims from the community or to be familiar with jurisdictional policies and procedures. If they move to another job assignment, arranging for them to testify in court can be complicated.<sup>105</sup>

**Encourage the development of specific knowledge, skills, and attitudes.** Conducting a sexual assault medical forensic examination is a complex and time-consuming procedure. It is useful for examiners to have specific knowledge and skills that can guide them as they perform these exams.<sup>106</sup> For example, it is beneficial for them to know about the following:

- The dynamics and impact of sexual victimization;
- Jurisdictional laws related to sexual offenses;
- Coordinated multidisciplinary response, roles of each responding agency, and procedures for communicating with each agency during immediate response;
- The importance of examiner neutrality and objectivity during the examination;
- The broad spectrum of potential evidence and physical findings in these cases;
- The importance of the medical forensic history and other documentation;

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<sup>104</sup> Eligibility criteria for IAFN SANE Adult/Adolescent certification includes: registered license as an R.N. in the United States or its Territories, or a license as a first-level general nurse in the jurisdiction of current practice; a minimum of 2 years of practice as an R.N. in the United States or as a first-level general nurse in the country of licensure; successful completion of an adult/adolescent SANE education program that includes either (a) a minimum of 40 continuing education contact hours of classroom instruction, or (b) 3 semester hours (or the equivalent) of academic credit in an accredited school of nursing, and sufficient supervised clinical practice until determined competent in SANE practice. An appropriate clinical authority, as outlined in the adult section of the IAFN *SANE Education Guidelines* (1998) must validate current SANE competency. (Drawn from the *IAFN SANE Certification Brochure*, available at [www.iafn.org](http://www.iafn.org).)

<sup>105</sup> Most hospitals or medical clinics that physicians or advanced practice nurses are employed by or affiliated with require them to apply for facility privileges. Those requesting privileges usually must agree to provide forwarding addresses when they leave. Also, medical licenses can be tracked to the State or Territory where the health care provider is working.

<sup>106</sup> The next two bulleted sections are adapted from the *California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims*, 2001, pp. 25–26, produced by the California Governor's Office of Criminal Justice Planning. Also see L. Ledray's *SANE Development and Operation Guide*, pp. 54–55, for information on SANE training components.

- Proper evidence collection and preservation procedures;
- Preexisting needs and circumstances of patients that may affect how the exam is conducted;
- Treatment options and procedures for common concerns such as pregnancy, STIs, and HIV infection;
- Equipment, supplies, and medication typically used during the exam;
- Precautions to prevent exposure to potentially infectious materials;<sup>107</sup>
- Indications for followup health care and documentation of injuries;
- Applicable laws and protocols regarding performance of medical forensic exams and standardized forms used to document findings;
- Patients' needs for support, crisis intervention, advocacy, information, and referrals during the exam process, local resources for addressing these needs, and procedures for accessing resources;
- The importance of establishing vehicles to ensure the quality of the exam and related documentation;
- Examiner court testimony (what it involves and how examiners can prepare for it); and
- Applicable research findings, technological advances, and promising practices.

It is useful for examiners to be able to:

- Preserve their neutrality and objectivity in each case;
- Assess patients' clinical condition (physical and psychological assessment<sup>108</sup>) and provide appropriate treatment and medical referrals (e.g., to a surgeon);
- Adapt exam procedures to address patients' needs and circumstances as much as possible;
- Take measures during the exam process to reduce the likelihood of patients' retraumatization;
- Take precautions according to facility policy to prevent exposure to potentially infectious materials;
- Contact advocates upon initial contact with patients (where available) so they can offer patients support, crisis intervention, advocacy, information, and community referrals before, during, and after the exam;<sup>109</sup>
- Gather information sensitively from patients for a medical forensic history and use the history as a guide when performing an exam;
- Explain to patients what items need to be collected for evidence and for what purposes;
- If patients want to report, promptly involve law enforcement representatives and work with them to maximize the collection of evidence from patients and from crime scenes;
- Identify and describe pertinent genital and anorectal anatomical structures and external landmarks;
- Identify and document injuries and interpret physical findings;
- Use enhancement techniques for detection and documentation of findings;
- Collect and preserve evidence for analysis by the crime laboratory;
- Collect and preserve toxicology samples in suspected drug-facilitated sexual assault cases;
- Maintain and document the chain of custody for evidence;
- Maintain the integrity of the evidence to ensure that optimal lab results are obtained;
- Evaluate the possibility of STIs and HIV infection and provide prophylactics and/or treatment;

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<sup>107</sup> See the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) for its Bloodborne Pathogens Standard (CFR 1910.1030). It may be accessed at [www.osha.gov](http://www.osha.gov) or by calling 800-321-OSHA. According to this standard, bloodborne pathogens are pathogenic microorganisms that are present in human blood and can cause disease in humans. Among other things, the standard requires employers who have employees at risk for occupational exposure to bloodborne pathogens and other potentially infectious materials to develop plans to eliminate or minimize employee exposure. It also advises universal precautions that should be observed to prevent contact with blood or other potentially infectious materials (this approach treats all human blood and certain human body fluids as if they are known to be infectious). In addition, the standard requires employers to ensure that all employees at risk participate in a training program to inform them of risks, related facility policies, and necessary precautions. Employers must also establish and maintain a record for each employee with occupational exposure.

<sup>108</sup> Examiners typically assess patients' psychological functioning to determine whether there is a risk for suicide and whether patients are oriented to person, place, and time. They may request a mental health evaluation for patients, if necessary.

<sup>109</sup> It is helpful if jurisdictions clarify the specific roles of advocates and examiners during the exam process. In the absence of advocates or other victim service providers, examiners may be responsible for providing crisis intervention and support to patients. In situations where examiners are both collectors of evidence and crisis counselors, it is important to understand whether these dual roles affect their ability to testify in an unbiased manner.

- Assess pregnancy risk and discuss treatment options with the patient, including reproductive health services;
- Ensure that patients' immediate medical needs and concerns are addressed and appropriate medical referrals are provided prior to discharge;
- Recognize evidence-based conclusions and limitations in the analysis of findings;
- Complete standard forms for documenting the medical forensic results of the exam;
- Discuss evidentiary findings with investigators, prosecutors, and defense attorneys as requested (according to jurisdictional policy); and
- Testify in court if needed.

**Encourage a minimum standard for advanced education and supervised clinical practice for health care personnel conducting the exam, as well as certification for nurse examiners.** Such a standard must speak to specific education and supervision needs of involved disciplines. For example, nonphysician examiners may require medical supervision and backup, in addition to completing necessary training and clinical requirements. Certification through the IAFN is currently available only to nurses trained as SANEs. When designing classroom education for examiners, make sure the examiners understand the importance of a multidisciplinary response during the exam process. Consider involving trainers from health care, advocacy, law enforcement, prosecution, judiciary, and crime laboratories.

Standardized curricula on sexual assault exams in medical school, nursing and nurse practitioner programs, and physician assistant programs are recommended. Consideration must be given to how to systematically secure, supervise, and retain examiners in/for poor, rural, or remote areas, institutional settings,<sup>110</sup> military bases, college campuses, tribal lands, migrant farm worker communities, and other areas needing increased victim outreach. Examiners need to know how to respond in a respectful manner to various populations within their community (e.g., local tribal victim service providers may be able to provide training on cultural beliefs and practices that might be relevant in sexual assault cases).

In addition, other health care providers who come into contact with patients who disclose a recent assault need information on procedures for obtaining immediate patient assistance and caring for patients prior to their arrival at the exam site.

◦ Examples of institutional settings include prisons, jails, immigration detention centers, juvenile detention centers, jails, nursing homes, assisted living programs and rehabilitation programs and inpatient treatment centers.