Introduction

Sexual assault is a prevalent crime in our society that has a devastating and long-term impact on individuals from all walks of life. Although an assault can be traumatizing in and of itself, it can result in a range of problems for the victim, such as mental anguish, physical injuries, and sexually transmitted infections (STIs).[7] It is essential that communities offer assistance to victims in the immediate aftermath of an assault. Communities must also work to hold offenders accountable for their actions and stop them from committing further sexual violence. Elements of response typically include the following:

- Provision of medical care for victims as needed;
- Collection of evidence from victims, which may aid investigation and prosecution;
- Investigation of reports of sexual assault, which may lead to charges against suspects and prosecution;
- Support, crisis counseling, information and referrals for victims, as well as advocacy to ensure that victims receive appropriate assistance; and
- Support and information for victims' families and friends.

This document focuses on elements of immediate response that are the responsibility of health care providers—medical care for sexual assault patients and collection of evidence from them. It seeks to assist health care personnel in validating and addressing patients' health concerns, minimizing the trauma patients may experience, promoting healing, and maximizing the collection and preservation of evidence from patients for potential use in the legal system. (A sexual assault medical forensic examination as described in this document addresses both evidence collection from patients and medical care for serious injuries).

This protocol also addresses the role of advocates, law enforcement representatives, prosecutors, forensic scientists, and other responders in the medical forensic exam process. For various reasons, many sexual assault victims choose not to seek medical care or have evidence collected. However, coordination among professionals involved in immediate response may be instrumental in reversing this trend. It is often found that victims will seek assistance when responders work together to ensure that victims are informed of their options for assistance, encouraged to address their needs, and aided in obtaining the help they want. In addition, multidisciplinary coordination may enhance medical care provided to victims as well as evidence collection and preservation efforts.[8]

Background

This national protocol was developed by the Office on Violence Against Women under the direction of the Attorney General pursuant to the Violence Against Women Act of 2000.[9] In developing the protocol, OVW reviewed existing protocols on sexual assault forensic examinations and consulted with national, State, local, and tribal experts on sexual assault. Experts were consulted from rape crisis centers; State and tribal sexual assault and domestic violence coalitions and programs; and programs for criminal justice, forensic nursing, forensic science, emergency room medicine, law, social services, and sex crimes in underserved communities.[10]

Starting in the summer of 2001, the Department of Justice (DOJ) began gathering information on resources, issues, and gaps related to sexual assault medical forensic exams. The first task was to identify and obtain relevant materials and data. Existing national and jurisdictional protocols on the exam and immediate

7 STI are also commonly known as sexually transmitted diseases (STDs).
8 For example, when first responders explain to victims how to preserve evidence on their bodies and clothing prior to arrival at the exam site, they may increase the likelihood that the evidence will be collected rather than contaminated or destroyed.
9 The statutory requirement to develop this protocol can be found in Section 1405 of the Violence Against Women Act of 2000, Public Law 106-386. The statutory requirement also mandates the development of a national recommended standard for training for health care professionals performing these examinations, as well as related training for all health care students. These training standards will be created at a later date and, due to this fact, this protocol does not provide extensive training information.
10 Such consultation was required under Section 1405 of the Violence Against Women Act of 2000, Public Law 106-386.

multidisciplinary responses to sexual assault were sought,[11] as well as documents that analyzed jurisdictional response. Input was solicited on issues, gaps, and promising practices from numerous organizations, associations, and individuals representing disciplines involved in the response to sexual assault. In addition, numerous persons were contacted who could offer perspectives on particular issues related to the exam process. State sexual assault coalitions and/or State government agencies that oversee violence against women programs were also contacted to gain information on their activities concerning protocol development and training. In some States, data was obtained through discussions with sexual assault forensic examiners and coordinators of examiner programs or sexual assault response teams.

A series of forums was held in the summer and fall of 2002, calling upon practitioners and policymakers involved in victim advocacy, health care, forensic science, and criminal justice fields to assist in developing a national protocol. After a draft protocol for adult and adolescent victims was developed in early 2003, it was distributed to a wide array of individuals and organizations for their review and feedback.[12] Comments were first solicited from the individuals who were invited to the forums. Then input was sought from sexual assault survivors, as well as tribal sexual assault and domestic violence coalitions and local advocacy programs. Members of the National Advisory Committee on Violence Against Women also reviewed the draft and provided input. After several revisions of the document, feedback was solicited during the summer of 2003 from many national and State organizations and some local agencies that deal with sexual assault issues or serve diverse populations, as well as other individuals representing relevant disciplines. Comments received were incorporated into the document where appropriate. The finalized protocol will be reviewed periodically and revised as needed.[13]

Many of the provisions of this protocol are based on recommendations made by the consulted experts. Some of the recommendations are based on empirical research. Although research has been and continues to be done in many areas related to the medical forensic exam and was considered to the extent those involved in protocol development were aware, much more research needs to be done to provide support and validity to the exam process.

The national protocol recommends, rather than mandates, methods for conducting the medical forensic exam.[14] It serves as an informational guide to communities as they develop or revise their own protocols.[15] In no way does it invalidate previously established jurisdictional protocols, policies, or practices.

About This Document

<u>Organization.</u> Protocol recommendations are organized into several broad sections: A) overarching issues, B) operational issues, and C) the examination process. Each section builds on information presented in previous sections and comprises tasks to be addressed, issues to be considered, and related recommendations. Although an effort has been made to avoid repetition of information throughout the document, there are instances where data is repeated for clarity or emphasis. The appendixes discuss the topics of protocol customization by jurisdictions and creation of sexual assault response teams.

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[11] Protocols reviewed varied in scope, focus, targeted audiences, and level of detail. Most addressed to some extent exam and evidence collection procedures, drug-facilitated assault, evidence integrity, and evaluation and care for STIs, HIV, and pregnancy. Some also addressed roles of involved responders, multidisciplinary coordination, reporting, crime lab testing, court testimony, issues related to victims' needs, working with specific populations of victims, payment for the exam, and crime victims' compensation.

[12] The scope of this protocol is limited to the sexual assault medical forensic exam of adult and adolescent victims. A separate protocol should be developed on child exams. Not only is child sexual victimization a complex topic in and of itself, but response to child victims can be considerably different from response to adult and adolescent victims.

[13] Future revisions will attempt to incorporate new research, advances in science and technology, and promising practices. Rather than depending solely on revisions to the national protocol for updated information, responders involved in the exam process are urged to stay informed of cutting-edge research, advances, and practices, and promote change to their jurisdictional protocols to reflect the most effective responses possible.

[14] The protocol has no regulatory purpose and is not intended to nor does it provide legal advice. (Statement adapted from the *Hawaii State Sexual Assault Protocol for Forensic and Medical Examinations,* Introduction, 1999.)

[15] Those involved in the development of this protocol strove to create a document that addressed the many issues facing communities across the Nation related to the exam process. However, there may be instances where the document falls short of adequately addressing specific needs or challenges facing a jurisdiction or a specific population of victims. See appendix A on customizing protocols for ways that jurisdictions can address these limitations when they are developing/revising their own protocols.

Protocol foundation. This protocol is based on a belief that it is possible, with a victim's consent, to simultaneously address the two primary purposes of sexual assault forensic examinations: the immediate health needs of a victim and the future needs of the justice system.

Key principles underlying response to sexual assault victims as discussed in this document include:

- Recognition of victim safety and well-being as paramount goals of response;
- Recognition that victims know far more about themselves and their needs than responders;
- Respect for victims' right to make their own choices;
- Recognition that providing victims with information about their options during the exam process, expected consequences of choosing one option over another, and available resources can help them make more informed decisions;
- Recognition that all victims, regardless of differences in backgrounds and circumstances, have the right to receive a high-quality medical forensic exam and to be treated with respect and compassion;
- Respect for victims' right to confidentiality; and
- Recognition of the importance of victims' feedback to improving the exam process.

Another important principle is recognition that the vast majority of sexual assaults are committed by assailants known to victims. Historically, sexual assault committed by nonstrangers was not taken seriously and interventions were less than adequate. It is imperative that all involved responders acknowledge that sexual assaults committed by persons known to victims are as grave a crime as those committed by strangers. Responders should be aware that victims' reactions to an assault are affected by a multitude of factors: one of them being the prior relationship between the victim and the offender. They should also understand that many variables may affect the relevance of certain types of evidence to a particular case, including whether an assault was committed by a stranger, a known offender who claims no sexual contact with the victim, or a known offender who claims the victim consented to the contact.[16]