

5. Photography

Recommendations at a glance for health care providers and other responders to photograph evidence on patients:

- Come to consensus regarding the extent of forensic photography necessary in sexual assault cases.
- Consider who will take photographs and what equipment will be used.
- Consider patients' comfort and need for modesty and privacy.
- Explain forensic photography procedures to patients.
- Take initial and followup photographs as appropriate, according to jurisdictional policy.

Consider the extent of forensic photography necessary. Taking photographs of patients' anatomy that was involved in the assault should be routine in sexual assault cases. Such photographs can supplement the medical forensic history and physical findings.¹⁷¹ As to the extent of photographs necessary, communities appear to take two different approaches. Some routinely take photographs, with patients' permission, of both detected injuries and normal (apparently uninjured) anatomy involved in the assault. These jurisdictions encourage examiners to collect and document all evidence and leave the determination about the value of the evidence to litigants.¹⁷² Other communities limit photographs to detected injuries.

Involved prosecutors, law enforcement officials, examiners, and advocates should further discuss the extent of photography they view as critical, examine any related case law, consider their concerns on this issue and how to be sensitive to victims, and, ultimately, determine what strategy is right for their community.

Consider the photographers and equipment. Examiners or law enforcement representatives typically take these photographs, according to jurisdictional policy. In many jurisdictions, examiners are responsible for forensic photography during the exam because patients are often more comfortable and less traumatized when they take photographs. If patients have not decided to report, they may not want law enforcement involved.¹⁷³

Photographers should be familiar with equipment operation and be educated on forensic photography in sexual assault cases. Consult with local criminal justice agencies regarding the types of equipment that should be used (e.g., prosecutors can assess which types of equipment produce results acceptable by the court). In general, any good-quality camera may be used as long as it can be focused for undistorted, closeup photographs and provides an accurate color rendition.¹⁷⁴ If digital photography is used, the reliability of photographic images must be considered because of technological advances in computer alteration. Also consult with local examiners, because they are often knowledgeable regarding photographic and video equipment used in these cases and their effectiveness in capturing images during the exam.

Consider patient comfort and privacy. Minimize patients' discomfort while they are being photographed and respect their need for modesty and privacy. Drape them appropriately while taking photographs.¹⁷⁵

Also, consider how to best provide support to patients during this time. Patients may want an advocate and/or a personal support person to be present. Take measures to avoid allegations of impropriety when photographing patients. For instance, if for some reason a male photographer is photographing a female patient, another woman should be present at this time.

¹⁷¹ The *California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse*

Victims, 2001, p. 56.

¹⁷² However, photographs should not be used to interpret subtle and/or nonspecific findings (e.g., erythema or redness) that are not noted on exam documentation. Review of photographs cannot reliably diagnose injuries not seen by examiners.

¹⁷³ Avoid requiring that patients go to another site (e.g., the law enforcement agency) to have initial photographs taken.

¹⁷⁴ The *California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims*, 2001, p. 56.

¹⁷⁵ Drawn from the *California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims*, 2001, p. 56, and the American College of Emergency Physicians' *Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient*, 1999, p. 113.

Explain forensic photography procedures to patients. Taking photographs of patients in the aftermath of an assault can be retraumatizing. To help reduce the chances of retraumatization, help patients understand the purpose of photography in forensic evidence collection, the extent to which photographs will be taken and procedures that will be used, potential uses of photographs during investigation and prosecution (especially anogenital images if taken), and the possible need to obtain additional photographs following the exam. (Also see A.3. *Informed Consent*.)

Take initial and followup photographs as appropriate, according to jurisdictional policy.¹⁷⁶ Strive to control every element in the photograph to produce a clear, powerful statement. Photographs should be taken prior to evidence collection.

Patient identification. Link patients' identity and the date to the photographs, according to jurisdictional policy.¹⁷⁷ For example, print the patient's name, date of exam, and the photographer's name/initials on a plain sheet of paper. Photograph this sheet at the beginning and end of the roll of film for identification. Some jurisdictions also photograph the face of patients for identification purposes. Some cameras offer the option of imprinting the date and/or time on the negative, and some have the ability to enter a case number so the face or name of a patient is not on the film.

Mechanisms should be in place (e.g., at law enforcement agencies and exam facilities) to protect patients' privacy and confidentiality related to the photographs.

Clear and accurate photographs. Use the shutter speed and lens aperture to control exposure (automated cameras and flash units can give incorrect exposures). Use adequate lighting whether the source is natural, flood, or flash. Use of flashes and lighting in the exam room can change the color of evidence; a filter may help adjust lighting so that the photograph is truer to color (noting in records any alternations to the environment to enhance photographs). Include a color bar in the photograph to ensure accurate color reproduction.

Strive for undistorted photographs with good perspective (whenever possible, use a normal focal length lens, keep the camera level, and photograph the subject at eye level). Maintain sharp focus (keep the camera steady, focus carefully, use maximum depth of field, and look at the frame of the scene).

A good-quality macros lens with a ring strobe flash offers the best quality and most flexibility for forensic photography involving sexual assault.

Scale. Use an inch scale or ruler for size reference in photographs. In addition to those photographs that identify patients and anatomical locations being photographed, take at least two photographs of each area— one with and one without scale. Taking two photographs in this manner demonstrates that the scale was not concealing anything important. Photograph evidence in place before moving it or collecting it. Do not alter or move evidence when photographing, and make every effort to minimize distraction in photographs while maintaining the focus of areas being photographed.

Orientation of shots. Take at least two shots at three orientations:

1. Take full-body images (anterior, posterior, and lateral) with the patient's face visible and clearly identifiable. Position patients approximately two feet from the corner of the room, using walls to reflect and diffuse flash illumination. When photographing the backs of patients, turn their faces toward the camera so that they can be recognized.
2. Take medium-range photographs of each separate injury, including cuts, bruises, swelling, lacerations, and abrasions. Work from one side to the other and then top to bottom, or design a workable method. Be consistent. Take "regional" shots to show injuries in the context and orientation of a body region; these photographs should include easily identifiable anatomical landmarks.
3. Take closeup images of particular injuries, using the scale. When photographing a wound, show its relationship to another part of the body. Take at least three photographs involving a wound area. Shield

¹⁷⁶ This section is drawn from the American College of Emergency Physicians' *Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient*, 1999, pp. 113–115.

¹⁷⁷ *The California Medical Protocol for Examination of Sexual Assault and Child Sexual Abuse Victims*, 2001, p. 56.

uninvolved breast or genital areas when possible; highly graphic photos may be deemed inadmissible in court and make the case less credible. All injuries should be recorded with a closeup attachment. Try to capture subtleties in texture and color. Document pattern injuries caused by an object. Do not use an external light source around an injured eye as it can cause retinal damage.

Photographing skin. Closeup photographs of hands and fingernails may show traces of blood, skin, or hair. Be sure to look for damage to nails or missing nails. Photograph marks of restraint or bondage around wrists, ankles, or neck; they may be compared later with the object in question that made the marks. Photograph transfer evidence present on the body or clothing, such as dirt, gravel, or vegetation.

Bite mark evidence. Photograph bite marks, according to jurisdictional policy.

Accountability. All photographs should be clearly labeled and the chain of custody maintained. Follow jurisdictional policy for development of film, transfer, duplication or additional prints, and storage of photographs. Do not include photographs in the evidence collection kit sent to the crime lab.

Followup photographs. Photography should be repeated as new or different evidence on patients' bodies is found following the exam (e.g., bruising may appear days later). Create procedures that examiners, law enforcement investigators, and patients follow to ensure this evidence is documented. In addition to documenting emerging or evolving injuries, followup photographs provide documentation of healing or resolving injuries and clarify findings of stable, normal variants in anatomy that could be confused with acute injuries.