



End Violence Against Women International  
(EVAWI)

# Forensic Exams for the Sexual Assault Suspect

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In this training bulletin, I address one of the most common topics I am asked about – forensic evidence collection from the body and clothing of sexual assault suspects. I originally published this material as a *Promising Practices* article in the June 2007 newsletter for my private company, Sexual Assault Training & Investigations (SATI, Inc.). It was later reprinted with permission in the December/January 2008 issue of *Sexual Assault Report* published by Civic Research Institute. However, I have to say it continues to amaze me that all these years later, this is still one of the most frequent questions I am asked. The critical need for suspect exams remains, and I would argue today – just as I did in 2007 when this article was first published – that suspect exams are one of the most overlooked aspects of a successful sexual assault investigation.

## Forensic Exams for the Sexual Assault Suspect

One source of evidence that is critically important, but all too often overlooked in a sexual assault investigation is the suspect examination. In my experience, I have found that most law enforcement agencies have failed to establish appropriate policies and procedures for obtaining comprehensive forensic examinations for sexual assault suspects which is unfortunate, given the potential for recovering probative evidence from the body as well as the clothing of suspects.

The purpose of this training bulletin is to make the case for the importance of suspect examinations, to explore some of the reasons why they often are not done, and to provide concrete recommendations for overcoming these barriers and using suspect examinations effectively in your community.

## The importance of suspect exams

When evaluating potential sources of evidence, we as law enforcement professionals often focus on anything that might have transferred from the suspect to the victim; thus, forensic examinations of the victim are seen as critically important. However, we need to keep in mind that any evidence that could potentially be transferred from the suspect to the victim may also be transferred from the victim to the suspect. Therefore, depending on the type of contact involved in a sexual assault offense, the suspect's body may actually be a better source of probative evidence than the victim's.

- For example, in the case of a digital penetration of the victim's vagina, the suspect's fingers will often be the best source of probative evidence. This can even be true if the suspect has bathed since the sexual assault, because most people do not routinely scrub underneath their fingernails with hot soapy water.
- As another example, if the suspect forced his penis into the victim's mouth during the sexual assault, his penis may be a richer source of evidence than the victim's mouth.

To highlight this point, consider a study conducted by Isacc T. Caain, entitled: "The Use of Physical Evidence in the Investigation and Prosecution of Sexual Assault Cases."



(This study was submitted as a Master's Thesis in Forensic Sciences to National University in July of 2002). The research was conducted while I was supervising the Sex Crimes Unit at the San Diego Police Department, and it involved analyzing the findings from 77 sexual assault cases that received laboratory analysis from our Forensic Biology Unit between 1998 and 1999. Results of this study revealed the following:

- In cases involving an adolescent victim, 44% of the suspect's rape kits that were examined by a criminalist identified the victim's DNA. In fact, DNA analysis of epithelial cells found on penile swabs of the known suspect were the most common pieces of suspect evidence associated with victim identification.
- In the cases with an adult victim, as many as 30% of the suspect's rape kits that were examined by a criminalist identified the victim's DNA. Again, DNA analysis of epithelial cells found on penile swabs of the known suspect were the most common pieces of suspect evidence associated with victim identification.

Clearly, any evidence from the suspect's body that establishes the identity of the victim will be important in the investigation and prosecution of sexual assault. It is therefore surprising that so few law enforcement agencies routinely collect forensic evidence from the body of the suspect.

### **The clothing of the suspect**

Equally surprising is the frequent failure to seize the suspect's clothing, which again could be a terrific source of probative evidence. In many cases, the clothing worn by the suspect during the sexual assault is still available and – depending on the specific case history and the time since the assault – it is often a better source of evidence than the forensic examination of the victim. All of these potential sources of evidence should therefore be considered when “thinking outside the box” during a sexual assault investigation. Turning again to the Caain study:

- When the suspect's clothing and other crime scene evidence such as condoms, bottles and tissue, were examined, 80% of the items examined by a criminalist included the victim's DNA profile and 20% included the suspect's DNA profile.
- Of the 51 adult cases, 16.7% of the items examined by a criminalist included the suspect's DNA profile and 50% included the victim's DNA profile.

Clearly, important evidence can often be obtained from the body and clothing of a suspect in a sexual assault case. This is especially significant because so many people think of sexual assault cases as not having physical evidence – that they are simply a question of “he said, she said.” In many cases, however, physical evidence can be obtained if we look in the right place.

## It's not just about DNA identification

Yet the importance of the suspect examination is not solely based on the potential for documenting the victim's DNA for identification purposes. Depending on where the victim's DNA is found on the suspect's body, it may provide a better idea of the specific acts that were involved in the sexual assault (e.g., penile-vaginal penetration, digital penetration, oral copulation). This type of evidence may be particularly helpful with very young victims, or with victims who are under the influence of drugs or alcohol, because they may not recall or may not be able to articulate exactly what happened to them. Evidence of the victim's DNA on the suspect's body can also be important in cases involving multiple perpetrators, where the victim knows that a suspect participated in the assault but is not sure if he penetrated her.

Even beyond DNA evidence, the suspect examination is important because it can provide documentation of the suspect's clothing, appearance (e.g., shaven or unshaven), physical anomalies, tattoos, piercings, and other characteristics that may become important later on during the course of an investigation and prosecution (thanks to Assistant District Attorney Cathy Stephenson in San Diego, California for these ideas). It can also corroborate information that the victim provides about sensory experiences, such as the suspect's smell (e.g., aftershave, cigarettes, body odor, bad breath). Evidence from the suspect examination can also provide other types of information that "fill in pieces" of what happened before, during, or after the sexual assault. For example, debris from leaves could be found on the suspect's body that came from the bushes outside the victim's home, or paint chips could remain from the suspect's work earlier in the day. A thorough suspect examination certainly demonstrates diligence on the part of law enforcement investigators and establishes a critical focus on the suspect – both of which are important for juries considering the evidence in the case (thanks to Senior Deputy Prosecuting Attorney Patti Powers in Yakima, Washington for these ideas).

Yet one of the most important reasons for conducting a suspect examination is to document evidence of force, resistance, and injury. As you know, most sexual assault cases result in a consent defense these days – even when the suspect is a stranger to the victim. Therefore, biological and trace evidence may not be as critical for establishing the identity of the suspect as one might initially think. Yet many investigators assume that this means a suspect examination will not be particularly useful, and that is not necessarily true. A suspect examination may still be extremely useful in a consent defense case, because the evidence that is obtained may corroborate the victim's (and/or suspect's) account of events. The evidence may also document force or injury, which is obviously critical for overcoming a consent defense. In fact, any time a victim describes a great deal of force involved in their sexual assault – or when victims state that they bit, kicked, or scratched the suspect – injuries to the suspect might still be identified and documented for days afterward.

Clearly, the decision to obtain a suspect examination should not be based solely on an understanding of how long trace and biological evidence might be available on the

suspect's body. In the majority of sexual assault cases where consent is going to be the primary issue, any evidence that provides corroboration of the victim's account and documents force or injury is absolutely critical. As a result, the determination of whether or not to obtain a suspect examination can only come from a careful consideration of the case history. Investigators must think through the facts of the case and determine what kinds of evidence might prove useful – and for what purposes. At a minimum, I can recommend that a forensic examination of the suspect should be conducted any time (1) the suspect is arrested shortly after the sexual assault, (2) the law enforcement investigator believes that the suspect has not bathed since the sexual assault (however, keep in mind that depending on the type of assault, an exam may still be warranted even if the suspect has bathed), or (3) if there is reason to believe there might still be evidence of injury to the suspect.

### **Barriers to suspect exams: Lack of research and feedback**

So, assuming for the moment that I've convinced you of the importance of suspect examinations, let's explore some of the reasons why they are not routinely conducted in many communities.

One of the barriers I see is that community professionals don't always appreciate how important forensic evidence is for the successful investigation and prosecution of sexual assault. In recent years we have seen increased understanding among many community professionals for the importance of forensic evidence gathered and documented during the victim's examination. However, this has not typically extended toward seeing the importance of suspect exams.

As you certainly know, most Sexual Assault Response and Resource Teams (SARRTs) have been established to provide victim-centered services, including appropriate medical care and the identification and collection of potential forensic evidence from the victim. This certainly reflects an increased appreciation of the importance of forensic evidence gathered from the victim. Yet there were many times during my law enforcement career when I was frustrated with the lack of attention to the forensic part of the medical forensic examination.

On the one hand, victims who were examined by health care providers in my community typically received the most competent and compassionate medical care available.

- At the same time, I observed a serious lack of understanding among community professionals regarding how and when rape kits were processed by the crime lab. Many did not understand why there was and (in many jurisdictions still is) a back log of DNA evidence in our property rooms and crime laboratories.

This makes it clear to me that we still have a long way to go before we fully appreciate the role that forensic evidence can play in these cases. If community professionals do not yet understand the role that forensic evidence gathered from the victim's

examination can play in successful investigation and prosecution of sexual assault, it is unlikely that they will recognize the critical role that could be played by forensic evidence gathered from the suspect's examination.

Further complicating matters, we are still waiting for the type of research that is needed to determine which types of evidence are typically found from which sources – and how long after the sexual assault it can be recovered. This research would need to be conducted by evaluating findings from the crime lab and comparing them with the unique characteristics of sexual assault cases. It would need to include the analysis of case variables such as:

- The type of assault (e.g., penile/vaginal rape, sodomy, oral copulation, penetration with a foreign object, including digital penetration, and attempted sexual assault).
- The time delay between the sexual assault and the forensic examination.
- Hygiene activities of the victim and/or the suspect.
- The source of the probative evidence (e.g., crime scene evidence such as foreign objects, condoms, clothing, oral swabs, internal vaginal swabs, external vaginal swabs, or swabs taken from the victim's breast or neck based on her verbal history of the activities involved in the assault).

Like the Caain study, the findings from this research would help us to determine which types of evidence are found from which sources and for what length of time after the sexual assault. With such research findings in hand, we would then be much better equipped to provide guidelines for the forensic examination (of both victim and suspect) that are relevant to the current state of forensic science.

In many communities, it is difficult to establish or revise policies regarding forensic evidence collection because we do not know the answers to these questions. Until such research is available, it is all too easy for communities to continue to collect forensic evidence “the way we’ve always done it.” But my opinion is that we cannot wait until we have all the answers before we improve our collection procedures. We need to establish policies and protocols for conducting forensic examinations of the victim and the suspect – and seek feedback from our crime laboratories regarding what evidence they find, and from which sources.

### **Other barriers to suspect exams**

In addition to the lack of research and feedback, additional barriers also get in the way of routinely conducting suspect examinations in many communities. In many jurisdictions, for example, there are no protocols in place for trained forensic examiners to conduct suspect examinations. I believe there are a number of reasons for this, and a number of factors to consider when developing such policies and procedures.



- First, the programs and facilities that were established to provide medical forensic examinations for victims were designed to be compassionate and victim-centered. As a result, their staff (e.g., SANEs, SAFEs) typically do not want to have suspects – often in handcuffs – within the same environment as sexual assault victims. Even if the suspect is not the suspect in the sexual assault victim’s own case, just having suspects in the same location may be very upsetting to a crime victim. Therefore, while I recommend that suspect exams be conducted by trained examiners, it may not be ideal to have these exams conducted at the same facility as the forensic examinations of victims. For example, one scenario is for the victim’s exam to be conducted in the SANE facility or hospital while the suspect’s examination is conducted at the police department.
- In addition to the emotional distress it may cause victims, any facility that conducts both suspect and victim forensic examinations will significantly increase the potential for cross contamination of the evidence. Therefore, if the victim and suspect are examined in the same facility, or possibly even by the same examiner, policies and procedures must address the steps that will be taken in order to prevent such cross contamination. In fact, any community that is expanding the role of forensic examiners to conduct exams with suspects as well as victims will need to ensure that they receive sufficient training to do so. Clearly, many of the issues are very different for suspect exams yet many forensic examiners have only received specialized training in how to conduct victim exams.
- Another reason why suspect exams are not routinely conducted in some communities is that they are expected to be performed by crime lab personnel or law enforcement officers. In some jurisdictions, this has actually become a labor issue because officers and crime lab personnel do not believe it is appropriate for them to do such an intimate examination of the suspect. I actually share this concern. To obtain the best forensic evidence possible, I believe that suspect exams must be conducted by examiners with specialized training and clinical experience. In most cases, this will be a health care provider, not a law enforcement officer or employee of the crime lab.
- Of course, some law enforcement agencies might be reluctant to use trained forensic examiners to conduct suspect examinations because it is more expensive than using their own personnel. This clearly reflects a concern with the prioritization of resources, and any law enforcement agency that is serious about investigating and prosecuting sexual assault must take a hard look at this question. While it is clearly less expensive to use law enforcement personnel to conduct suspect exams, the evidence that can be collected is extremely limited when compared to the documentation and evidence that can be collected by a trained forensic examiner with specialized expertise in this area.



- Another barrier is that many communities are currently experiencing a shortage of nurses. As a result, they are often unable to provide forensic examiner coverage around the clock even for victims – let alone suspects. Having forensic examiners conduct suspect examinations would stretch these limited nursing resources even further. Any effort to conduct suspect exams must therefore take into account alternative ways of addressing the reality of a nursing shortage that may exist in the community. For example, the City of San Diego Forensic Examiner program utilizes both LVN's and paramedics. Both have the ability to check for vital signs, document injuries, collect hair samples, swabs, and draw blood. Clearly, protocols that are developed must be realistic and based on the resources that currently exist in your community.
- In many communities, there are still debates about who is going to pay for forensic examinations – even with sexual assault victims. I believe this stems from a failure to recognize the victim's forensic exam as evidentiary (rather than solely medical). To the extent that the forensic examination of a sexual assault victim is an evidence collection procedure, I do not believe it should be treated differently than other law enforcement evidentiary procedures. In other words, whoever pays for other evidentiary procedures (such as processing a bank following a robbery or conducting a traffic accident investigation) should also pay for the forensic exam of a sexual assault victim. In a sexual assault case, the body is a crime scene – whether it is the victim's or the suspect's. However, any community that fails to see the victim's forensic exam as evidentiary will most likely also fail to recognize that the suspect's examination is evidentiary as well. Clearly, payment procedures should be in place for law enforcement agencies to pay forensic examiner programs to conduct forensic exams with both victims and suspects. (For more information on payment issues and the implications of the 2005 re-authorization of the Violence Against Women Act known as VAWA 2005, please see the *Promising Practices* article from our e-newsletter dated June 26, 2006 (at [http://www.mysati.com/enews/Jun2006/enews\\_062606.htm](http://www.mysati.com/enews/Jun2006/enews_062606.htm)).

### **Lack of standardized guidelines, kits, and forms**

Beyond such philosophical issues, some of the barriers to suspect exams are more concrete. For example, the *National Protocol for Sexual Assault Medical Forensic Examinations* that was published in September 2004 (by the Office on Violence Against Women, US Department of Justice) does not even address the topic of suspect examinations. In addition, very few states provide any sort of standardized guidelines regarding forensic examinations for suspects.

Even fewer states provide forms for documenting the suspect examination, similar to the ones that are used for the examinations of victims. Clearly, statewide guidelines and standardized forms provide helpful guidance on how to handle suspect exams. They also offer the potential to increase consistency in the practices used from jurisdiction to jurisdiction. California and North Dakota are exceptions, because both have



standardized guidelines and a form that is used for forensic examinations of sexual assault suspects. These materials are also available in the appendix:

[https://www.evawintl.org/images/uploads/CAElectronicSuspect\\_Exam\\_Form.pdf](https://www.evawintl.org/images/uploads/CAElectronicSuspect_Exam_Form.pdf)

<https://www.evawintl.org/images/uploads/NDSuspectForensicExamForm.pdf>

Similarly, very few communities have created evidentiary kits for the suspect forensic examination. Some exceptions include San Diego (California) and (South Carolina) which have developed their own evidentiary kits for use with suspect examinations. The SDPD crime lab puts together their own kits whereas the South Carolina State Crime Lab contracts with a private company (Tri-Tech, Inc.) to produce custom kits (see <http://www.tritechusa.com/custom.htm>).

Another private company that sells evidentiary kits for the suspect examination is Lightning Powder Company, Inc:

[http://shop.armorforensics.com/mm5/merchant.mvc?Screen=CTGY&Store\\_Code=RedWop&Category\\_Code=2588](http://shop.armorforensics.com/mm5/merchant.mvc?Screen=CTGY&Store_Code=RedWop&Category_Code=2588).

Some jurisdictions use the same kit for both victim and suspect examinations, like the state of North Dakota does. Unfortunately, one of the problems in some communities is the lack of communication between forensic examiners, law enforcement investigators, and crime lab personnel – so the kit that is used for suspect examinations may be missing elements that are necessary for thorough evidence collection.

Clearly, some of these barriers are easier to overcome than others. Some are more philosophical in nature and require cross-disciplinary dialogue and training to better appreciate the importance of suspect exams. Others are more concrete and can be addressed with collaborative effort to develop policies, protocols, and resources. As described above, these resources may include standardized guidelines, forms, and evidentiary kits for suspect examinations. It is therefore important to take stock in your community, to see where the barriers lie, and then design a strategy for overcoming them. In the Appendix of this article, I will also provide some materials that you might find helpful as you work through this process.

### **Designing a protocol for conducting suspect examinations**

To summarize, I believe that law enforcement policies and SARRT protocols must ensure that a forensic examination is conducted as soon as possible in any sexual assault case where:

1. The suspect is arrested shortly after the sexual assault;
2. The investigator believes that the suspect has not bathed since the sexual assault, or;



3. The history suggests that there might be evidence of injury on the suspect.

(As a side note, suspect examinations can also be extremely valuable for many other types of crime such as homicide, child abuse, robbery, domestic violence, etc. Therefore, much of the information in this article will be equally relevant for those types of crimes as well.)

In addition, the clothing worn by the suspect during the sexual assault is often still available at the time of the law enforcement investigation, regardless of how much time has passed. As I have already noted, the suspect's clothing may be a better source of evidence than the forensic examination of the victim, depending on the specific case history and the time since the assault. As a result, community protocols can also highlight the need to collect this critical evidence without respect to any particular timelines. If the clothing that the suspect wore at the time of the sexual assault (and/or immediately afterward) is available, it should be collected as evidence. To provide guidance on the collection of clothing as evidence, please see the documentation form that is provided in the Appendix.

### **Legal requirements for a suspect forensic examination**

The next question that people typically ask me is how to get the legal authorization to conduct a suspect examination. Essentially, there are three ways that a suspect examination may take place: (1) The suspect may consent to a forensic examination; (2) An examination may be conducted incident to an arrest, or; (3) A warrant or court order can be obtained. Even in situations where a full examination cannot be conducted, law enforcement personnel can still often obtain a mouth (buccal) swab of a suspect. I'll address each of these in turn.

First, let's talk about suspect consent. It is clear that law enforcement officers are allowed by law to use the consent of the suspect as a basis for obtaining a forensic examination. However, some law enforcement agencies have policies prohibiting this practice. Therefore, law enforcement professionals must check with their own Department, as well as the prosecuting attorney's office, to learn about the protocol in their community. For guidance, we have provided a consent form for the suspect examination in the Appendix that is used by the COVERSA (Collection of Victim Evidence Regarding Sexual Assault) program in North Kansas City, Missouri. This was provided by Dr. Rebecca Hierholzer, President / CEO for COVERSA.

Perhaps surprisingly, most suspects will in fact consent to a forensic examination when asked. Of course, investigators must be careful that the consent is not coerced as it may be challenged by the defense in court. If this option is chosen, I strongly recommend that the suspect's consent to the forensic exam be obtained in writing. Other precautions can also be taken such as:

- Having an investigator offer the examination (rather than an officer in uniform with a visible weapon);



- Limiting the number of law enforcement officers present at the time of the request, and;
- Making sure that the suspect understands that he is not in custody, that he is free to leave at any time, and that he is free to stop the forensic examination or refuse any part of the forensic examination at any time.

All of these issues will be examined by a judge if the suspect's consent is challenged.

The second way that a suspect examination can be obtained is incident to an arrest. In some jurisdictions like California, law enforcement agencies are allowed to obtain a complete forensic examination of the suspect incident to an arrest. In these jurisdictions, the courts have allowed the practice based on exigent circumstances – because the evidence may no longer be available if too much time elapses. Although we rarely had a problem in California with suspects being combative during the forensic examination – in fact, most were actually quite cooperative – we were even allowed to use force to obtain the suspect examination as long as we did not shock the conscience of the court.

In most of the jurisdictions I have trained in, however, law enforcement personnel are required to obtain a search warrant or court order in order to conduct a suspect exam; this is the third way it can be obtained. Although this clearly adds another step to the investigative process, and can sometimes be seen as unnecessarily time consuming, I do not believe it should stand in the way. As I have said, the evidence obtained from a suspect examination can be extremely valuable and therefore should not be overlooked when conducting a sexual assault investigation. Therefore, in those jurisdictions where a warrant or court order is needed, I recommend that all officers have a template available on their computers for easy access. To help with this, I have provided a sample template as an Appendix to this article.

- Keep in mind, however, that any time a warrant is issued for collection of forensic evidence from a suspect, the issuing judge typically sets applicable time limits. The investigator will then need to present the court order or search warrant to the forensic examiner.
- The search warrant will also state exactly which samples have been authorized by the judge for the examiner to collect. The items explicitly stated on the search warrant are the only samples that can be obtained during the suspect examination. For this reason, the investigator should carefully articulate as many samples as possible that can be supported by the probable cause alleged in the warrant. For an example of a search warrant and supporting affidavit, see the Appendix.

Before concluding this section on legal requirements, I want to note that even in those cases where a full examination cannot be conducted with a suspect, it is often still possible for law enforcement personnel to obtain a mouth (buccal) swab for DNA. In

fact, I believe that all law enforcement professionals should be encouraged to carry mouth swab kits in the field.

Remember, however, that the collection of evidence from a mouth swab is governed by the same requirements and exceptions described above. Mouth swabs can be used to collect a DNA reference sample with suspects, and they can be used by any law enforcement professional who has received training in how to collect, store, and transfer them. They can be particularly useful because suspects often consent to providing mouth swabs to law enforcement personnel in the field, in order to avoid being transported to a medical facility. The procedure is also much less intrusive than drawing blood. As a result, many law enforcement agencies actually prefer mouth swabs over a forensic examination of the suspect, because medical personnel are not needed, and it is therefore less expensive and time consuming. On the other hand, a mouth swab can only be used to obtain a DNA sample and not the other types of forensic evidence I have talked about in this article, so I see it as a valuable tool – but not one that replaces the need for a full forensic examination of the suspect when appropriate. For information on how to use mouth swabs, detailed guidance is provided in the Appendix.

### **Components of a suspect examination**

To address the issue regarding whether police personnel are qualified to conduct suspect forensic examinations, it is important for SARRT communities to first agree on what is to be included in a complete and thorough suspect examination. Clearly, agencies that use officers or even evidence technicians to collect such evidence are only doing a very superficial examination. As with the victim, a thorough forensic examination of a sexual assault suspect will include the following:

- Taking a limited medical history (based on the type of legal consent/authorization);
- Checking vital signs;
- Conducting a general and genital examination, and;
- Collecting any physical evidence such as clothing, hair samples, foreign debris, and swabs.

Typically, the forensic examination of a suspect is actually identical to the victim examination – except of course, there is no pelvic examination. Another difference is that -- unlike the victim examination -- law enforcement personnel must remain present at all times during the forensic examination of a suspect. This must be clearly stated in any protocol that is developed. And although it is not a common problem, policies must also address how force will be used if it is necessary with a suspect who is combative or dangerous.

More information about the protocol for suspect examinations is discussed in the Concepts and Issues Paper on Investigating Sexual Assault that was released in 2005 by the National Law Enforcement Policy Center of the International Association of

Chiefs of Police (IACP). It was designed to provide background discussion for their Model Policy on sexual assault investigation that was released at the same time. The following excerpt appears on page 12:

*At the beginning of the forensic examination, the investigating officer should provide the examiner with a summary of the assault, including the acts reported, the location, any physical identifying information provided by the victim or witness(es), and any potential injuries that the victim described inflicting on the suspect. Because the forensic examiner is an agent of the investigating officer, a Miranda warning must be provided to any suspect who is questioned while in custody. This includes questioning the suspect about his medical history (since the information will be used to evaluate any possible findings). The examiner should then obtain a medical history from the suspect, if possible. This history should include recent information on any anal or genital injuries, surgeries, diagnostic procedures, or medical procedures that may affect the interpretation of the current findings. Such information can help to avoid confusing preexisting lesions with current injuries or findings. If the suspect invokes his or her right to remain silent, the examiner should bypass the medical history and continue the examination.*

*In addition to the collection of such biological and trace evidence, the forensic examiner should also record the suspect's vital signs and document (including through the use of body diagrams and photographs) any visible injuries or complaints of pain. Depending on the case history, urine and blood samples may be needed for toxicology or to counter potential defenses that might be raised by the suspect. DNA reference samples of blood and/or saliva should also be obtained.*

*During the forensic examination, all physical findings must be carefully documented, including any observable or palpable tissue injuries, physiologic changes, or foreign material (e.g., grass, sand, stains, dried or moist secretions). Unlike in the forensic examination of the victim, there should be no conclusion as to whether the findings are consistent with the history provided by the suspect. Both the examiner and attending officer should be prepared to document any spontaneous statements made by the suspect regardless of whether the suspect is in custody or provided with a Miranda warning.*

For more information, the IACP's Model Policy and supporting Concepts and Issues Paper are available at:

<http://www.theiacp.org/PublicationsGuides/ContentbyTopic/tabid/216/Default.aspx?id=1133&v=1>



In the Appendix of this article, you will also find a checklist for conducting suspect examinations that was developed by forensic examiners in Columbia, South Carolina; these were provided courtesy of Terry Casto with Palmetto Health Richland / Baptist SANE. I hope that you find this information helpful as you craft a protocol and materials to use in your own community.

Of course, if a suspect is not arrested for several days following a sexual assault and the victim was unable to fight or resist at the time, a full forensic examination of the suspect may not be recommended. However, a DNA reference sample should still be obtained in these cases, because evidence still may be recovered from the victim or the crime scene that will connect the suspect to the victim or the location of the crime. Depending on state and local protocol, this DNA reference sample might be obtained using blood or a DNA reference sample might also be obtained using a buccal swab, which could be done by law enforcement personnel or evidence technicians if they have the proper training to do so. This is especially important now that so many states are extending or even abolishing the statute of limitations for sexual assault crimes. Even if the sexual assault being investigated today is not successfully prosecuted, a DNA reference sample should be obtained from the suspect in case there is another one in the future.

### **Overcoming the barriers: The SDPD model**

In California, where I spent my law enforcement career, suspect examinations are clearly seen as evidentiary and law enforcement agencies contract with forensic examiner programs in order to conduct them. Therefore, before I conclude this article, I want to describe the protocol that we had in place for suspect examinations in San Diego -- because I believe it provides a model for policies and procedures that can be used effectively in other communities.

The City of San Diego has an exclusive contract with one forensic examiner program for victims 18 and older and another one (Children's Hospital) for victims under the age of 18. To address the issue of victim/suspect contact as well as possible contamination, the San Diego Police Department (SDPD) decided not to have suspect exams conducted at the same (SART) facility as victim exams. Rather, they decided that suspect exams would be conducted at SDPD Headquarters, so they set up an examination room specifically for this purpose. This was a very attractive option for SDPD because arresting officers already had to bring the suspect to headquarters to get fingerprints, photographs, and booking approval. Eliminating a trip to the SART facility therefore saves their officers valuable time that can then be allocated to the investigation.

Once the suspect is brought to SDPD Headquarters, the examination is conducted by a sexual assault forensic examiner who has undergone a background investigation in order to obtain clearance. Once they are cleared, these examiners are provided with police identification as a subcontractor, so they can respond directly to SDPD Headquarters when a suspect examination is needed, and they do not need to be





escorted through a secure building. If they arrive before the arresting officer, they can begin to prepare for the suspect examination. Afterward, they also impound the forensic evidence collected during the suspect examination directly in the property room. This works extremely well because the arresting officer no longer has to wait for the swabs to dry or for the forensic examiner to package the evidence or complete their reports. The forensic examiners also often complete the property tag more thoroughly than officers did before this protocol was implemented, because impounds and property tags were generally completed by officers at the end of a very long shift. For forensic examiners, they are now completed immediately after concluding the examination. Clearly, there are many advantages of this model that can be tailored and adapted for the needs of widely varying communities.

### **Resources provided in the Appendix**

For further guidance in developing (or improving) the protocol for conducting suspect examinations in your community, I have provided a number of resources in the Appendix of this article. I have already mentioned that the Appendix includes detailed instructions on how to collect buccal swabs as well as a sample template and affidavit for a warrant to obtain a suspect examination. It also includes the checklist for conducting suspect examinations that was provided by forensic examiners in Columbia, South Carolina as well as a clothing documentation form developed by members of the San Diego County SARRT. Finally, a consent form for the suspect forensic examination has been provided by the COVERSA program in Kansas City, Missouri. I hope that you find all of these materials helpful as you develop policies and protocols for suspect examinations in your own community.

I also provided internet addresses for the materials that are available for suspect examinations in California and North Dakota, as well as the IACP Model Policy and in this training bulletin, I address one of the supporting Concepts and Issues Paper on sexual assault investigation. In the process of developing a protocol, guidelines, documentation forms, evidentiary kits, and other materials for your community, I expect that the discussion will provide a way for SART members to come to agreement regarding what should be expected of a suspect examination. I hope I have provided both the encouragement and the specific guidance that you need to work together with other professionals in your community to ensure that suspect exams are conducted routinely and according to best practice. Good luck!



## Appendix

In the Appendix, you will find a number of sample materials from various jurisdictions:

1. **Sexual Assault Suspect Examination Form (fillable)** State of California, California Emergency Management Agency Fillable version created by Eisenhower Medical Center, Rancho Mirage, California
2. **Suspect Forensic Exam Form** North Dakota Sexual Assault Evidence Collection Protocol (4<sup>th</sup> edition) North Dakota Office of the Attorney General, North Dakota Council on Abused Women's Services, Coalition Against Sexual Assault in North Dakota, and the Otto Bremer Foundation
3. **Guidelines for the Suspect Examination** Palmetto Health Richland / Baptist SANE, Columbia, South Carolina
4. **Instructions for Obtaining Mouth (Buccal) Swabs** San Diego Police Department, San Diego, California
5. **Consent Form for Suspect Forensic Examination** COVERSA (Collection of Victim Evidence Regarding Sexual Assault), Kansas City, Missouri
6. **Affidavit and Search Warrant for Suspect Forensic Examination** San Diego County, California
7. **Affidavit and Search Warrant for Confirmation DNA Sample** San Diego County, California
8. **Clothing Addendum / Documentation Form** Eisenhower Medical Center, Rancho Mirage, California

