



## Letter vs. Spirit of the Law

by Sara G. Gonsalves, J.D.

Letter of the Law	Intent/Spirit of the Law
<p>States, territories and Indian tribal governments may not require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a medical forensic exam.</p>	<p>Victims have access to a prompt, unobstructed and high quality medical forensic exam that includes the full range of services necessary to promote healing and ensure the integrity of the evidence collected.</p> <p>Victims are not required to report the assault to law enforcement, speak with a law enforcement officer or otherwise interact with the criminal justice system until such time as they choose to do so.</p> <p>Victims have access to reporting options that provide them with the ability to provide as much or as little information to law enforcement as they wish and at the time of their choosing.</p> <p>SAFE kits are collected, transported, tracked and stored in a manner consistent with chain of evidence and storage security in order to ensure the utility of the evidence for future use in court.</p>
<p>States, territories and Indian tribal governments may not charge victims for the cost of a medical forensic examination.</p>	<p>Victim privacy and/or anonymity is maintained throughout billing and evidence tracking and storage.</p> <p>Victims are not required to utilize their insurance to cover the cost of a medical forensic exam.</p> <p>Victims are not confronted with complicated billing procedures that make it difficult to access reimbursement, should they incur out-of-pocket expenses.</p>
<p>Medical forensic exams include:</p> <ul style="list-style-type: none"> <li>• examination of physical trauma</li> <li>• determination of penetration or force</li> <li>• patient interview; and</li> <li>• collection and evaluation of evidence</li> </ul>	<p>The entity responsible for payment of the medical forensic exam reimburses at a rate that reflects the true and consistent cost of the services provided.</p> <p>Medical professionals conducting medical forensic exams have the specific training and knowledge necessary.</p> <p>DNA or other physical evidence is not forwarded to CODIS or other forensic laboratories for testing and evaluation until such time as the victim reports the assault directly to law enforcement.</p> <p>While there is often a desire to distinctly separate the medical from the forensic components of the examination, the reality is it cannot be done. The forensic or evidentiary components of the exam (if they are necessary), must be incorporated into all aspects of the medical care itself in order to provide seamless care. This care includes the components of STI and pregnancy prophylaxis as well as evidentiary components.</p>

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