

PATIENT CARE POLICY
Emergency Department

Title: Non-Acute Evidence Collection Only

Original Date: _____

Review Dates: _____

Revision Dates: _____

Policy:

In the course of a law enforcement investigation of a sexual assault or other crime, it may become necessary for law enforcement to collect biological specimens for evidentiary purposes from the body of a suspect or non-acute victim. In these instances, the requesting law enforcement agency may call upon the evidentiary expertise of the forensic nurse examiner (FNE) team to acquire the necessary specimens. The specimens collected may be obtained pursuant to the following:

- Evidence collection only with informed consent of a suspect (for victim see SANE policy)
- Non-acute (greater than 7 days from the assault) evidence collection of a victim or suspect
- 41.1 Evidence collection
- Search warrant/Court-ordered evidence collection
- Exigent circumstances

Definitions:

Forensic Nurse Examiner (FNE), is a registered nurse who has been specially trained in the application of the forensic aspects of health care and the gathering of evidence in accordance with chain of custody requirements, combined with the bio-psycho-social aspects of nursing, in the scientific investigation and treatment of trauma and/or death of victims and perpetrators of abuse, violence, criminal activity and traumatic accidents. The education of the FNE properly prepares her/him for evidentiary exams where no patient/provider relationship has been established.

Evidence Collection with Informed Consent of the suspect, is collection of evidentiary materials identified by the criminal justice system, with the informed consent of the suspect, with law enforcement or an attorney present, collected at a scheduled time.

Non-Acute Evidence Collection from a Victim, is collection of evidentiary materials identified by the criminal justice system, collected with the informed consent of the victim at a scheduled time.

41.1 Evidence Collection, is collection of evidentiary specimens when there is a court order for non-testimonial identification signed by a judge specifying or identifying what evidence shall be collected. Law enforcement or an attorney must be present.

Search Warrant/Court -Ordered Evidence Collection, is collection of evidentiary specimens when there is a court order or search warrant signed by a judge from a court of competent jurisdiction specifying the evidence that shall be collected. Nothing may be collected beyond what is identified in the signed search warrant or court order. Law enforcement or an attorney must be present.

Exigent Circumstances, is collection of evidentiary specimens when the suspect is brought in by law enforcement immediately from the crime scene, where the possibility that evidence of that crime presently exists on the suspect's body and may not be present later, or may be destroyed quickly or easily with time and activity. Law enforcement must be present.

Process:

1. In the circumstances listed above, when a suspect or victim presents and the suspect or victim does **not** request an evaluation or treatment of a medical condition, no medical screening examination is required pursuant to the Emergency Medical Treatment and Active Labor Act, unless a prudent layperson would believe that the suspect or victim is suffering from an emergency medical condition.
2. The victim or suspect may be scheduled for specimen collection through the FNE Program at the specific request of law enforcement or an attorney by presenting to the Emergency Department and requesting the FNE on-call or in-house be paged.
3. If the FNE notices any of the following signs or symptoms during the course of evidence collection, the suspect or victim will undergo a medical screening examination and necessary stabilizing treatment. Such signs and symptoms include, but are not limited to:
 - Difficulty breathing
 - Decreased level of consciousness
 - Bleeding [profuse or any type of bleeding]
 - Head Injury

Standard of Practice:

1. When law enforcement or an attorney presents to an Emergency Department with a request for specimen collection from a suspect or victim, the FNE on-call or the FNE in-house will be notified
2. The FNE will not collect any specimens that violate a signed court order or search warrant in circumstances specified above, without the victim's or suspect's informed consent.
3. Collection of evidence should be done using the appropriate *SIRCHIE kit* and completed in accordance with the recommended guidelines.
4. Procedures for storage and release of forensic evidence collected from a suspect or victim should follow the same recommendations indicated for the release of evidence to law enforcement.