Evidence in Sexual Assault Investigations Part 2

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The views and opinions expressed herein are solely those of the author and do not necessarily reflect the views or policies of the Columbia County Sheriff's Office
The Sexual Assault Kit

LEO’s working Sexual Assault should have a basic knowledge of the kit so that they know what type of evidence they are requesting.

Many jurisdictions have S.A.N.E.’s (Sexual Assault Nurse Examiner) and should use them if at all possible.

Other jurisdictions will have the kit completed by E.R. personnel.
Legal Requirement for Law Enforcement Officers

794.052 Sexual battery; notification of victim’s rights and services.—(1) A law enforcement officer who investigates an alleged sexual battery shall:

(a) Assist the victim in obtaining medical treatment, if medical treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services from a certified rape crisis center and provide or arrange for transportation to the appropriate facility.

(b) Advise the victim that he or she may contact a certified rape crisis center from which the victim may receive services.

(c) Prior to submitting a final report, permit the victim to review the final report and provide a statement as to the accuracy of the final report.

(2) The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available to a victim on a standard form developed and distributed by the Florida Council Against Sexual Violence in conjunction with the Department of Law Enforcement. The notice must include the resource listing, including telephone number, for the area certified rape crisis center as designated by the Florida Council Against Sexual Violence.
Legal Requirements for Emergency Rooms.

395.1021 Treatment of sexual assault victims.—Any licensed facility which provides emergency room services shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:

1. Such gynecological, psychological, and medical services as are needed by the victim.

2. The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report.

3. The training of medical support personnel competent to provide the medical services and treatment as described in subsections (1) and (2).

Such licensed facility shall also arrange for the protection of the victim’s anonymity while complying with the laws of this state and may encourage the victim to notify law enforcement personnel and to cooperate with them in apprehending the suspect.
The Sexual Assault Kit

Step 1—A full exam is conducted by the nurse of the victim. Injuries are photographed and documented.

Make sure the nurse understand exactly what you are looking for in the photos, and make sure the victim is aware that these photos will be shared with Law Enforcement, but are not subject to public record.
The Sexual Assault Kit

Step 2—Underwear

The **underwear should always be bagged separately**. FDLE will accept five items per submission, but if the underwear are sufficient they generally will return any other clothing items unprocessed.

Even if the victim has changed underwear, collection should still be completed.
The Sexual Assault Kit

Step 3—Pubic hair combing

Most people will have at least some pubic hair

Pubic combings are often very effective at recovering evidence.

The process is completed using a simple, sterile plastic comb.
The Sexual Assault Kit

Step 4—Vaginal swabs

Collected by the nurse, never by law enforcement.

Most kits have at least four swabs for this step.

Always should be collected if within 48 hours. (some jurisdictions may go as high as 96 hours)
The Sexual Assault Kit

Step 5—Cervical/Anal/Oral/Misc.

Used to collect from any other area where it is needed.

Can be used to collect from areas that have suspected stain under ALS (on victim)

Make sure the nurse understands what they are for and collect from areas as needed.

Ensure they are properly labeled.
Step 6—Buccal/Cheek standard

Used for the purposes of elimination/identification of the victim’s DNA

Must be collected anytime other collections are made.

The kit includes several integrity seals that should be affixed and signed by the nurse completing the exam.
The Sexual Assault Kit

Make sure to get all relevant information for the nurse/Dr. completing the exam. Medical personnel often move, change hospitals, etc. Get information that can help you find this person months or years later.
Responding to the Location where the Assault Occurred.

Securing, processing, and documenting the crime scene.
Responding to the Location where the Assault Occurred.

Is the scene indoor, outdoor, or vehicle?

• This is a basic consideration and will inform all other decisions moving forward.
Responding to the location

Are there any dangers associated with this location?

- Other suspects, uncooperative family/roommates, animals, weather conditions, scene conditions, etc.

Who else is likely to be at the location?

- Does the suspect live alone?
- Are there multiple suspects?
- Is the suspect still at the location?
Responding to the Location

- Maintain scene security:
- Don’t leave unsworn personnel at the scene alone.
- Identify fragile or trace evidence that needs to be documented and collected quickly. Be aware of any environmental hazards such as weather.
- Depending on where the scene is located, don’t overlook personal protective equipment. Ex: a meth lab.
Investigating the Scene

Do I need a Search Warrant?

- Suspect in Custody, get a search warrant for property under his control. If you have enough to arrest, you should have enough to search.
- Outdoor scenes, the victim’s home or vehicle, suspect not in custody, consent may be sufficient.
- When it comes to vehicles, don’t forget the Carroll Doctrine!
Investigating the Scene

What type of assault occurred?

• Were there other violent acts
• Did the victim physically resist?
• Depending on what occurred, evidence may be in different places. Ex: Oral copulation, spit into towel, trash can, etc.

What type of evidence am I looking for?

• Blood, DNA, semen
• Video or photos
• Suspect or victim clothing
• Broken cell phones
• Evidence that documents the location and corroborates that they victim has been there.
Evidence Procedures

Collection of Biological materials

- No eating or drinking while handling evidence
- Do not talk over biological evidence.
- Eye protection anytime you are scraping blood
- Collecting swabs properly - untainted water, drying, etc
- Transitory/fragile evidence should be protected and collected first.
Evidence procedures

Packaging:

• Biological materials go in paper bags
• Collecting trace evidence---proper wear includes face and head protection.
• Never touch anything without Gloves!
• Don’t forget, photograph everything.
• Don’t wrap the package tightly unless your agency requires; seal just the top. This makes it easier for others, such as the lab, to open from a separate location and leave your seals intact.
Evidence Procedures

Alternate Light Sources (ALS)

These are great tools, but make sure you know how to use them.

Where is the stain? Is it in an evidentiary significant area?

Practice with your camera so you can learn to take photos of the stain accurately.

Don’t be afraid to take a cutting.
Evidence Procedures

• This is a photo taken at a workshop I attended showing what ALS can do for you:

![Photo showing a shirt with a heart and the word "HELLO" under a black light]
Evidence Procedures

Electronic Evidence:

• Don’t forget about the obvious; photos, cell phones, computers, etc. These can be overlooked but can contain a wealth of information.

• Remember, many phones can now be cleared remotely, so you need to try and protect them from transmitting.
Evidence Procedures

Make sure you have description of everything; where it was found, why it is significant, how it relates to the case, etc.

Consider sending a letter with your request to the lab so they understand what it is you are looking for.

Make sure you know how to do whatever it is you are doing.
Suspect Examinations

You have a suspect in custody; now what do you do with him?

- Collect his clothing.
- Photograph all injuries, marks, scars, tattoos
- Buccal swabs
- Hair samples
- Penile swabs
- Examination for STD’s.
- Other swabs depending upon the investigation information.
- Make sure consent is informed, document anything they do voluntarily to further show that it was consensual.
- If no consent, get a search warrant/court order
Suspect Examinations

Determine who is doing the exam and who is going to assist.

Try to have someone medical assist, such as a jail nurse.

Make sure that what is being collected is done properly, secured quickly, and properly packaged.
Legal Concerns and Considerations

Consent—Many suspects will give consent because they want to prove they are reasonable, cooperative, and all around “good guys”

Months later, they suddenly were “forced” to do everything you wanted.

Make sure that you make no legal promises or any type of statement that could be seen as coercive.
Legal Concerns and Considerations

Speedy Trial: Evidence can sometimes take a while to be processed and returned, and prosecutors may want you to wait before filing charges/arresting the suspect. Make sure that the victim understands and stays informed throughout the investigation.

As an LEO, you have to weigh the safety of the victim and public against the need to wait for evidence.

If you are handling these types of cases, contact the local State Attorney’s Office so that you can work together for both goals.
Legal Concerns

One-party consent:

• As mentioned earlier, if it is property under the control of the victim there is usually no issue, unless the suspect has a reasonable expectation of privacy in it.
• Any area that is considered private, such as a bedroom the suspect inhabits, computer, cell phone, etc, is going to require a search warrant.
• Check with your local prosecutors concerning common areas.
• Avoid the idea of “we’ll go check, and if there is anything there then we’ll get a warrant.” This will come out and once it does, your evidence is highly likely to be suppressed.
Legal Concerns

Testimony concerning evidence:

• Know what you’re doing: If you didn’t collect it, don’t fall into the trap of testifying about it.
• If you did collect it, make sure you know the basic accepted standards for how you picked it up and be able to cite where you learned it.
• Never testify beyond your expertise; refer it to the expert.
Legal Concerns

Search Warrants:

• Be detailed in what you are looking for and include all evidence, including biological, trace, scene documentation.

• If you have any reason to think there might be text messages, video, or other electronic evidence, make sure that information is included. It may be necessary to complete a second search warrant for these items.
Sex Crimes are some of the most complicated cases that can be worked in Law Enforcement. When crime scene is added to that mix it can become more complex. Find more training and never stop learning.

Successful prosecutions require teamwork. Make sure you work with your victims, other investigators, advocates, prosecutors, crime scene, and lab personnel to make the best possible case.

Take care of the victims, but don’t forget to take care of yourself!
Evidence in Sexual Assault Investigations

• Questions or Comments?
• Additional training sources recommended by the author can be found at:
  • www.nij.gov
  • www.fdai.org
  • www.fscia.org
Evaluation and Certificate

Please visit this link to give feedback and print your certificate:

http://www.surveymonkey.com/s/RCF86P2