



# **Health and Medical Issues**



# Health and Medical Issues in Sexual Violence: An Overview

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## Key Learning Points:

- Victims/survivors of sexual assault have rights when receiving medical attention.
- It is important to explain the purpose of the evidentiary exam to the victim/survivor; some victims/survivors feel very uncomfortable having a pelvic exam after a sexual assault.
- Identify ahead of time a quiet and private place you can wait with the victim/survivor at the hospital to ensure confidentiality.
- Establishing rapport with hospital staff can help make your job and the victim/survivor's experience easier.
- The victim/survivor may have fears about pregnancy or STI infection; make sure they get their questions answered, and make sure the victim/survivor gets testing and prophylaxis if s/he requests it.

Due to the nature of sexual violence, victims of sexual assault and/or abuse may need or desire medical care. An exam at a medical facility can accomplish multiple goals: to collect evidence to help in prosecuting the assailant (if the victim chooses) and to check for injuries and other health-related concerns. An advocate can be extremely helpful in a medical setting for the victim. This chapter includes:

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## Introduction

One option available to victims/survivors of sexual violence is to seek attention at the emergency room (ER) or emergency department (ED). Visiting the ER/ED, however, can be an overwhelming experience as it can be a very busy setting. It would be nice to say that the victim/survivor will be treated and cared for immediately but, the reality is that it may be some time before they are seen. It is valuable to take into account the following resources that can be provided by the ER/ED:

- To document any injuries the victim has and to begin treatment for those injuries. Frequently following an assault, a person's normal state of shock may mean they are unaware of injuries;
- To prevent sexually transmitted infections (STIs);
- To evaluate and prevent the risk of pregnancy resulting from the assault;
- To collect evidence for possible prosecution if and when the victim/survivor chooses to report the assault to law enforcement. It is vital that this evidence be collected as soon as possible for it will be lost as time passes; and
- To take the first steps toward regaining control of one's life.

## Responding to the Initial Call

When a victim/survivor contacts a rape crisis center after an act of sexual violence, the points below should be given priority. This list is not an exhaustive discussion of responding to a crisis call. Only those points relative to the evidentiary exam are discussed here. This list presumes that you have established rapport, reassured the caller that this is a safe line and safe place to pose questions and learn options, helped the caller assess her immediate safety, established yourself as a supportive and helpful resource and attended to all of the initial needs talked about elsewhere in this manual.

- If the assault occurred recently – roughly within the past 72 hours – discuss the option of being seen at the local ER/ED as soon as possible. If the assault happened longer ago, medical attention may still be offered as an option. While it is less likely that evidence can be collected, it is up to the nurse or physician to determine whether or not medical attention is warranted. Referral to the ER/ED is a good and appropriate step.
- The payment for the evidentiary exam is covered by the county in which the assault occurred. This is true whether or not the victim chooses to make a report to law enforcement.
- There may be some costs associated with the non-evidentiary part of the exam such as medical treatments, etc. that the victim/survivor may be responsible for paying. Check with your local hospital to see what is covered by the county. You can let the victim know there are other means of meeting some of those costs ( e.g crime victim reparations, emergency fund, etc.)

Victims/survivors usually visit the hospital within 72 hours of a sexual assault; s/he is experiencing a lot, and they need support.



Being seen at the ER/ED will **not** result in a report to law enforcement unless the assault involves a mandated report (a child who is assaulted by a person in position of authority or in significant relationship OR a vulnerable adult. See chapter on mandated reports). or unless the victim wishes to report the crime to the police. In Minnesota, there is no mandatory report requirement for sexual assaults for competent adults.

Health care providers **are** required to report to law enforcement any gunshot wounds, burns, and other injuries that the medical provider has reasonable cause to believe have been inflicted by a perpetrator of a crime using a dangerous weapon other than a firearm.

Advise the victim/survivor that they have a right to have an advocate available at the hospital to offer support and information. Let them know you or another advocate will meet them there. Make sure the victim/survivor knows which hospital to go to and where to meet. Because not all medical settings in a community perform the evidentiary exam, you should verify which location performs the exams in your community. Usually, a family physician will not perform the exam because of the particular legal nature of the process.

Often victims/survivors have not considered the potential of sexually transmitted infections or pregnancy as a result of an assault. As you discuss the reasons to go to the ER/ED, be aware that these suggestions may be startling to a victim. Ensure the individual that they may address these concerns and seek appropriate medical care for them at the ER/ED.

If the victim/survivor is undecided about reporting the assault to law enforcement, the exam should still be offered as a strong option (most victims start with the assumption that they will NOT be making a report!). Collecting evidence now will be important if the victim decides later to make a report. Evidence available now will not be available in subsequent days. If the victim ultimately decides not to report, the Sexual Assault Evidence Collection Kit can simply be destroyed. In either case, the county will pay for the collection of evidence. If the victim/survivor ultimately decides to report the assault, it may greatly enhance the case if physical evidence was collected and is available. (There is information in the legal section of this manual about the reporting process.)

Advise the victim/survivor NOT to shower, bathe, douche, wash hands, brush teeth, comb hair, or urinate/defecate before going to an ER/ED; those actions may destroy evidence. Also, advise them NOT to change or destroy clothing, or straighten themselves up. As hard as it may feel not to clean up, doing so may destroy important evidence. If the victim/survivor is at home, suggest that s/he should arrange to take a change of clothing along to the hospital because the clothing they wore during the assault may be collected as evidence.

If the victim is unsure about being seen at the ER/ED or feels s/he must urinate, advise the victim to collect the urine in a clean container so that it can be brought to the ER/ED to be tested for date rape drugs, including alcohol, and to keep the specimen in her/his possession until s/he gives it to the appropriate medical personnel. The purpose for doing this is to gather evidence of chemicals including alcohol that may have been used to facilitate the assault. The first urine void is the most promising way to catch some drugs that leave the system very quickly.

If the victim/survivor decides to go to the ER/ED, the advocate should follow the protocols established locally. If there are no protocols established, the advocate should call the ER/ED, and with the victim/survivor's permission, alert them to the pending arrival of a victim/survivor of sexual assault. Their name should not be shared with the hospital at this point. The advocate should also let them know that s/he or another advocate will be dispatched to meet the victim at the ER/ED. With this notification the hospital may have time to make a private room available, secure the supplies necessary to do the exam, and call the appropriate staff — SANE (Sexual Assault Nurse Examiner), nurse, or physician. Also advise the victim/survivor not to clean up the scene if the assault happened in a place they have control of such as her/his place of residence, vehicle, etc. Evidence can be collected later when/if law

enforcement becomes involved.

## Rights of Sexual Assault Victims/Survivors Receiving Medical Attention

A sexual assault victim/survivor has the right to:

- Gentleness and sensitivity during the medical examination;
- Privacy during the collection of medical evidence;
- Request a friend, family member, or advocate to accompany them in the examination room;
- Have each procedure explained to them in detail before it is done;
- Have an explanation of the reason for each test, form, or procedure;
- Refuse any portion of the collection of evidence.
- A change of mind once the exam procedure has begun. A victim can ask that the exam stop and expect that the request will be honored.
- Request prophylactics for sexually transmitted infections and/ or pregnancy; however, it may not be paid for by the county. The victim/ survivor and/or their insurance may be responsible for the charges, please check your local situation;
- Request that law enforcement officers, advocates, others leave the examining room;
- Request copies of medical reports;
- Expect strict medical confidentiality; and
- Have his/her reactions to the act of sexual violence understood rather than considered abnormal behavior. Everyone has different shock reactions such as delayed reporting, crying, hysterics (or lack of either), quiet, loud, angry, sleeplessness, nightmares, anxiety and fear, to name a few.

## When the Victim/Survivor Arrives at the Emergency Room

A victim/survivor may present to the ER/ED with or without a referral. They may arrive on their own terms, with a friend or family member, law enforcement, or an advocate.

If the victim/survivor has made contact with an advocate, it is recommended that they agree on a place and time to meet. The advocate should have an official identification name badge or identification card (these should be supplied by the advocacy agency or the hospital). It is important that you introduce yourself to the victim/survivor, hospital staff, the SANE, and law enforcement (if present) in a manner that does not breach the confidentiality of the victim/survivor. This may be done by handing or showing your identification rather than speaking. It is important that you explain who you are, why you are there, and what services you can provide. Let the victim/survivor know that you can assist them in contacting friends and/or family members if they choose. Try to do all of this in a private place where you cannot be overheard. It is very important to protect the victim's privacy, so be sure to ask the victim/survivor exactly what they want you to say to the person(s) you are calling.

If a victim/survivor arrives without referral from an advocate, a SANE (if the hospital has one) or a doctor or nurse, and a sexual assault advocate should be contacted immediately. With changes in federal privacy regulations (HIPAA) some hospitals have changed their procedures for calling advocates. Work with your hospital to address any concerns they may have about calling for an advocate. Try to secure a private waiting area for the victim/survivor.

The victim/survivor may wait for a period of time before they can be seen. Use this time to provide information and support about what to expect before and during the examination from medical and law enforcement. Providing them with such details helps them to feel more prepared. Also discuss with them the importance of being totally honest regarding any information, including alcohol/drug use. Check with your county on policies regarding any charges to the victim (such as underage drinking) while reporting sexual assault. Most counties will not pursue these charges against the victim/survivor.

Use this time to see to the victim/survivor's physical and emotional needs, and to make arrangements for any concrete needs, such as contacting a significant other/family/friend or securing a safe place to stay.

## Roles of Those Attending to the Victim/Survivor in the ER/ED

*Advocate:* Here is a short list – see the “Role of the Advocate in a Medical Setting” article after this section.

The primary role of an advocate in the medical setting is to:

- Provide a victim/survivor with information regarding their options and rights;
- Answer questions or find the answers to questions s/he may have;
- Provide emotional support and crisis intervention assistance;
- Help the attending professionals understand what the victim wants. Advocate for those requests to be honored.
- Work with the hospital staff. You are both united in wanting quality care for the victim/survivor. Ask about things you don't understand so that you can explain the procedure(s) to the victim/survivor. With an advocate available to attend to these needs, the medical provider can be freed to perform their tasks without interruption; and
- Work with law enforcement. If the victim/survivor chooses to report, let them tell their story. Do NOT tell law enforcement details the victim “forgot.” DO NOT talk or ask questions during the statement. If the victim/survivor chooses not to report law enforcement and they have been erroneously called, explain to them without violating the victims privacy, that they are not needed at this time.

*Medical Provider:* The medical provider may be a SANE, RN, or physician/physician's assistant (PA). A SANE is a registered nurse who has received advanced training and education in the medical-forensic examination of sexual violence victims/survivors. A SANE also has been trained to respond to the psychological and emotional trauma that a victim/survivor may experience as a result of the assault. Some hospitals have SANEs available; most provide nurses, physicians, or PAs to conduct the exams. In the absence of a SANE, a nurse will usually conduct the

exam with the internal genital examination done by a doctor.

The principle responsibilities are to:

- Provide medical care for the physical health concerns of the victim/survivor; and
- Conduct an evidentiary exam to collect any forensic evidence that may be present on the victim/survivor's body.

Other responsibilities of medical personnel include:

- Providing information regarding STI testing and treatment options, and follow-up (see later section on testing);
- Making sure the victim/survivor is aware of their rights;
- Obtaining informed, written consent for certain procedures;
- Providing written instructions for follow-up and information about available resources;
- Acting as a liaison to advocates, law enforcement, and/ or other resources requested by the victim/survivor; and
- Being able to provide testimony if the case goes to court.

*Law enforcement (if requested by the victim or in cases where reporting is required):*

The primary role of law enforcement is to interview the victim/survivor. \*

Other responsibilities include:

The officer may or may not pick up the evidence from the evidentiary exam. Every hospital/county has different protocol, so please check the situation in your area;

- Making the decision to arrest the offender if they feel they have enough information to do so;
- Assessing the risk to the community; and
- Assessing the offender's risk of flight.

\*It is not unusual for medical personnel who have not been well trained to assume that all sexual assaults require a call to law enforcement. That is not true. If a law enforcement officer has been called to the ER/ED erroneously by the medical provider and the victim/survivor remains unsure about reporting the assault, they have the right to not speak to the officer.

## Role of the Advocate in a Medical Setting

*Your primary responsibility is to the victim/survivor. Be courteous and tactful to the hospital, but remain aware of the needs and rights of the victim/survivor.*

It may be that your first meeting with a victim/survivor of sexual violence is at the hospital. In many respects, this can be an ideal setting because help can be provided in several areas at once. The advocate can assist in explaining procedures and policies, offer concrete aid as needed, assist in clarifying options about such issues as reporting or possible pregnancy and, most importantly, be with the victim/survivor at a painful and lonely time. You may need to repeat or to check with her/him for understanding. A calm soothing manner can be helpful to the victim/survivor. Try to avoid technical language, medical jargon, or words that they may not

understand. When the person has adequate and accurate information about what to expect, choices to make, and his/her rights in the situation, anxiety and helplessness can be significantly reduced. Empowerment and healing can begin.

Your primary responsibility is to the victim/survivor. Be courteous and tactful to the hospital, but do remain aware of the needs and rights of the victim/survivor. Try to stay out of the way of hospital personnel performing their tasks and examinations. If you do not know the answer to a question or the reason for a procedure, ask the attending nurse or physician to explain. Many hospitals have had training to sensitize personnel to issues of sexual assault victims/survivors. The ethic of healing and caring is shared by you and health care professionals. Hospitals can be extremely busy places (especially emergency rooms), however, and sometimes procedures can become bureaucratic. If you feel that a staff member is not sensitive to the person's needs, ask to speak to them in the hall. Explaining how the victim/survivor is feeling and the effect their behavior has on them can be effective.

You may have arranged to meet the victim/survivor in the emergency room, been called by hospital personnel, or be accompanying the individual to the hospital. When presenting to the hospital, bring a business card or other identification that states you are from a sexual violence advocacy program so that you do not need to say out loud why you are there. If you enter with the victim/survivor, let her/him give their name and answer any questions. Your job is to make sure this is done in a private area away from the general public. If you are meeting the victim/survivor there, ask the person in charge of the emergency room for the name and/or location of the victim/survivor.

When you meet the victim/survivor, assess their emotional state and what their needs are. Their needs may include the following:

- Support and understanding;
- Desire to talk about the act of sexual violence;
- Information: medical, legal, etc.; and
- Concrete assistance: notifying a significant other/family member/friend or partner; a change of clothing; transportation home; a safe place to go after leaving the hospital.

Use the time you have together to begin meeting these needs. A wait before examination can be used to process feelings, give explanations, or make arrangements. Explain the medical exam. Stress the importance of this exam to be sure s/he is physically okay and to begin treatment for any injuries. By emphasizing the person's safety, well-being, and health, you can help the victim/survivor to deal with feelings of being scared and hurt by the assailant.

If the victim/survivor identifies as a female and has never had a pelvic exam before, she may be very anxious about the procedure. Waiting time can be used to explain what will happen if she seems anxious about it. Women who have had pelvic exams before should be assured that the procedure is basically the same as those they have had before. A victim/survivor may be worried that the exam will be painful because of her possible injuries, and it may be. She should be assured that the physician will be as gentle as possible.

In the victim/survivor's mind, the exam may be the second time in a short period that someone has had access to her/his genitals against their will. It's



Establishing rapport with hospital staff, while keeping the victim/survivor's needs first, can help make the experience easier for everyone involved.

You can help explain the purpose of the exam and what the procedure entails. You can also offer support during the actual exam if the victim/survivor requests it.



understandable that the process may bother them. It *may* help if the advocate, a family member, or friend is in the room with them during the exam. Be aware that law enforcement and hospital staff prefers not to have family or friends in the room while the victim/survivor is stating what happened. The victim/survivor may not reveal all the details necessary if someone close to them is in the room. Explain this to the victim/survivor, and let them know that you, the advocate, could remain if s/he would feel more comfortable. If s/he is adamant about having a family member or friend present, s/he has that right. During the actual exam s/he can have whomever s/he wants in the room for their comfort. Explain that some victims/survivors prefer to be accompanied and some do not. It is their choice.

If s/he does choose to have an advocate present in the examining room, there are a number of ways you can be helpful. S/he may tense up from fear, making the exam more uncomfortable. Stand at the head of the bed and look at his/her face or the wall to provide them with some privacy. Try to help them relax, use deep breathing techniques, offer that s/he can hold your hand, and talk in a soothing manner. They may or may not want you to explain the procedures. Take your cues from them. **DO NOT** ask if you can hold their hand, and do not grab their hand without permission.

Before or after the exam itself, the advocate can clarify questions about reporting the act of sexual violence to law enforcement. Whether to report the act of sexual violence may be an issue to help clarify for the victim/survivor. By reporting the crime, a victim/survivor is providing evidence the police may use to apprehend or prosecute the assailant(s). Check your county's policy. If s/he seems uncertain or does not want to report the crime at this time, you might suggest that having the evidentiary exam would keep options open for the future. Without the evidentiary exam, the victim/survivor will foreclose options for retrieving evidence that could have been collected in the exam. Just because s/he forgoes the exam, however, does not close her/his options for reporting or prosecuting (for further information, see the chapter on Legal Issues). The choice is theirs. You might offer to contact law enforcement if the victim/survivor so desires.

If the person is alone, ask whether there is anyone s/he would like to have called. The victim/survivor may wish to ask them to come to the hospital or just let them know where they are. An advocate should check with the victim/survivor about what kind of information to convey: is it okay to say that the individual has been sexually assaulted? Is it okay to talk with whomever answers the phone, or should the advocate talk only to the specific person named? If family or friends are present, the advocate can inform and reassure them about the victim/survivor's condition. Providing information about how victims/survivors, as well as friends and family members, often cope can help to ease issues they may face later.

If the victim/survivor is a female, you may want to help her assess whether there is a possibility that she is pregnant. Be sure to listen in a non-judgmental way and provide her with information about her options.

Some victims/survivors may wish to talk about the incident(s) now, either to you or to medical and police personnel. Let the person do so freely. Due to shock, victims/survivors may repeat the story as if in a daze or because the events seem so unreal.

Others may not wish to talk about these traumatic events. They may find medical or legal questioning distasteful and frightening. They may be withdrawn or expressive. Whatever their feelings or style of expressing feelings, validate the individual. Someone who can't stop crying may feel that they do not understand what is happening or that they are going crazy. Your reassurance can be important.

Let all victims/survivors know that you or other advocates at your sexual assault advocacy program will be available to talk when they want to do so. Be sure that, before you leave, the person has the phone number of your program center.

The advocate should check the person's safety when s/he leaves the hospital. If going home is not a possibility for some reason (for instance, the attack occurred there), the advocate can help arrange for a safe place for the victim/survivor to go (to the home of friends, other family members, women's shelters). They may decide to go home but want someone to accompany them or stay with them, especially immediately after an assault. The advocate can help to identify such persons and contact them.

## Why the Medical/Evidentiary Examination is Important

As an advocate, it is essential to understand why the medical/evidentiary examination is important. The following points may help to inform your work and support of the victim/survivor:

- To document any injuries the victim/survivor has no matter how minor, and to begin treatment for injuries. Frequently following an assault, a person's normal state of shock may mean they are totally unaware of injuries.
- To prevent sexually transmitted infections, and to evaluate and prevent the risk of pregnancy resulting from the assault —this assists in easing fears the victim/survivor may have about these consequences of sexual violence.
- To collect evidence for possible prosecution if and when the victim/survivor chooses to report, and a suspect is caught. It is vital that this evidence be collected as soon as possible, for it will be destroyed as time passes. Know your local policies about who keeps the kits and how long before the kits are destroyed if the victim/survivor chooses not to report.
- To take the first steps toward regaining control of one's life.

## Physical Examination

Physical evidence of a sexual assault can be quickly lost. Optimally, victims of sexual violence should be referred for a medical-evidentiary exam within the first 72 hours after the assault. The sooner the victim presents to the emergency room for the medical-evidentiary exam the better. Evidence, however, still may be found after the 72 hour window has expired. It is recommended that victims still be referred to medical personnel within a reasonable period of time if it is thought that physical evidence may still be present. The medical personnel, based on their professional opinion, will decide if an exam should still be completed.

If the victim was held captive, if significant physical force was used during the assault, or if the victim was not able to clean her/his body after ejaculation had

occurred, evidence may still be available. Specifically, in captivity, a victim may have had limited access to clean up or may have experienced repeated assaults causing significant injury, which may result in physical evidence lasting longer than 72 hours. Moreover, bruises or cuts can sometimes be apparent for days or weeks. And in some cases, it may take days for bruises to develop.

## Elements of the Exam

The medical-evidentiary exam, which is conducted by the SANE (Sexual Assault Nurse Examiner) or other medical professional (usually an ER nurse and doctor), will consist of two main procedures:

- *Interview or Medical-Legal Assault History:* is an interview of the victim to establish what events occurred during the assault and a physical examination. The purpose of the interview is to assist in guiding the SANE in the collection of evidence and examination of injuries. The victim will be asked questions similar to these:
  - General information —name, address, age, why the victim is at the emergency room.
  - Specific aspects of the incident that are required to do the exam such as — date, time, place; body orifices involved; whether the assailant ejaculated and where on the body; whether or not the assailant used a condom; whether or not there was an object used in the assault and where; contraceptive devices ordinarily used by the victim.
  - Menstrual history—date of last menstrual period, menstrual abnormalities, length of usual menstruation, current medications and contraceptives, etc. This information is to evaluate pregnancy risk and information required for evidence evaluation.
  - Time of last intercourse—questions about previous consensual sexual intercourse are posed to assist the lab in separating physical evidence of the consensual partner from evidence from the assailant. While this question might seem intrusive, assist the victim in understanding the importance of identifying the source of physical specimens.
  - The individual will be asked to sign one or more release or consent forms.
  - The individual will need a change of clothes in order to leave the hospital. If s/he was not in a position to obtain a change of clothing before arriving at the emergency room, you can help make arrangements to obtain them. Some hospitals keep a supply of donated sweatshirts and toiletries to assist victims at this time.
- *Physical Exam or the Medical-Legal Exam:* After completing the interview, the medical provider conducts a physical examination to collect any forensic evidence. The directions in the Sexual Assault Evidence Collection Kit supplied by the Bureau of Criminal Apprehension lead the provider step by step through the required process. Each medical facility that performs evidentiary exams will be supplied Sexual Assault Evidence Collection Kits free of cost by the Bureau of Criminal Apprehension, a branch of the MN Department of Public Safety.
  - The medical provider will collect any clothing that may have possible

evidence. If the victim is still wearing the clothing worn during the assault, s/he may be asked to remove the clothing while standing on a sheet. This sheet is used to collect any evidence, such as hairs and fibers, which may fall when removing the clothing. The sheet and the clothing will be placed in separate paper bags, sealed, and marked as evidence. Plastic bags are not used as they may support the growth of mold and mildew. Paper bags allow the items to dry naturally without destroying evidence.

- Elements of a general examination include the following:
  - ◇ Collect urine at the start of the exam to save for drug testing to document drug facilitated sexual assault (see later section on DFSA). If it will be a long wait for the exam, advocates can ask that the urine be collected as soon as possible and then wait for the exam.
  - ◇ Blood pressure, pulse, temperature and respiration rate will be taken.
  - ◇ The medical provider will check for and document bruises, cuts/ tears, marks, blood, traces of semen on the outside and the inside of the vaginal area. Pictures of injuries will be taken for documentation and to corroborate force. Reminder: Often bruises do not appear until several hours after the assault. A victim who sees bruises becoming more defined should be prompted to return to the ER/ED for additional photos.
  - ◇ Pelvic and rectal examinations will be conducted if details of the assault warrant them. A speculum will be inserted into the vagina to check for injuries or abnormalities.
  - ◇ Vaginal and perineal swabs will be taken to collect sperm and DNA.
  - ◇ A blood test for STIs and urine samples for a pregnancy test will be taken.
  - ◇ Pubic hair combings may be taken. This is usually done by the victim. S/he will be asked to sit on a piece of paper and using a small plastic comb will comb through the pubic hair. Whatever is released onto the paper will be enfolded in the paper and placed into an envelope for laboratory testing. Elements from the crime scene may be recovered. (Old practices called for pulling pubic and head hair for comparison with potential assailants. That step is no longer taken.)
  - ◇ Saliva tests may be taken. This is usually done with a buccal swab.
  - ◇ Material under the victim's fingernails may contain evidence useful to prosecution. This is only done when the victim reports scratching the assailant.
  - ◇ A Wood's light may be used to check the body. This ultraviolet light can detect semen, saliva and other fluids on the victim's body. Scrapings or swabbings of areas that fluoresce under the Wood's light will be sent for laboratory testing. These swabbings may provide important DNA evidence.
  - ◇ The victim's emotional status and feelings about the assault will be documented to also corroborate force and to assess her/him for emotional safety following the

trauma.

- ◇ The victim should be assessed and treated for any physical wounds that resulted from the assault when treated in the ER. The medical-evidentiary exam should also include the assessment of risk and prophylactic treatment of sexually transmitted infections; assessment of risk and emergency pregnancy interception; and crisis intervention, (see later sections on STD/STI testing and Emergency Contraception in the ER).

## Chain of Custody

When evidence is collected at an ER/ED visit, the attending medical provider must be able to testify to the security of the evidence. This is called the "chain of custody." While the medical provider is in "custody" of the evidence, s/he must be able to account for it either being in her/his possession or locked and unavailable to anyone else. Chain of custody is documented on the outside of the kit or on a separate evidence form.

If a medical provider steps out of the room and does not lock up the evidence, the advocate may be put in an uncomfortable position of being called to testify about the security of the evidence. Medical personnel need to retain oversight of the evidence and should never ask an advocate to "keep an eye" on it while s/he leaves the exam room. Some facilities have the means to lock up the evidence when the person conducting the exam must leave the room. You should check with your local hospital.

At the conclusion of the exam, the kit can be turned over to law enforcement. Sometimes this will happen immediately but it is likely that it will be picked up at a later time or date. Just because the kit is turned over to law enforcement does *not* mean that the victim has to report the assault. Law enforcement will hold or send the kit to the BCA, depending on the victim's decision to report.

Often, hospitals will hold and store a kit until the victim decides whether or not to report. Hospitals retain kits for various amounts of time and the advocate should talk to the hospital staff about their protocol. Advocates should talk to the victim about the implications of delaying a report. Any delay between the assault and report can be used by the defense to raise questions about the validity of the report.

## Evidence Collection at the "Crime Scene"

Remember; the process being conducted at the ER/ED is part of the investigation of a crime and hence has legal ramifications. As an advocate in the medical setting it is imperative to remember that you are there to support the victim, not to become directly involved in the investigation. It is therefore critical, that you maintain this role and refrain from any acts or behaviors that might impact the investigation. For example, do not ask the victim questions related to the crime, do not take notes, and do not advise the nurse or physician about how to conduct the exam. Often, the advocate will have more experience with supporting the victim through an evidentiary exam than the attending nurse or doctor. It is not unusual for a medical

provider to ask the advocate what they should do next. Resist the temptation to answer that question! Refer the doctor/nurse to the step by step directions in the Sexual Assault Evidence Collection Kit.

## Exam Payment

In Minnesota, the victim does not pay for the medical costs associated with gathering forensic evidence of a sexual assault. The county where the sexual assault occurred pays these costs. The county must cover these expenses, even if the victim decides never to report the assault to law enforcement and even if the assault is never prosecuted or investigated. While the victim can request that insurance be billed for the evidentiary exam the county cannot require that of a victim. The hospital can only ask the victim about the insurance option after the exam is completed. The hospital must also reassure the victim that not using insurance will not affect her/his ability to receive services. Each county interprets the "costs" a little differently so we encourage you to check with your local hospital(s), county attorney, police department(s), and/or MNCASA.

## Payment for Sexual Assault Exams When the Assault Occurs in One State BUT the Exam Occurs in a Different State

If a sexual assault occurred in another state and the exam is done in Minnesota, please contact your counterpart in the state where the assault occurred to find out more about their current laws regarding payment for exams.

## Health Issues of Sexual Assault Survivors

*Sexually Transmitted Infections (STIs):* Routine protocol as a part of the medical/evidentiary exam is to test for STIs, including HIV/AIDS. The reason for this testing is *NOT* to determine whether the victim contracted an infection at the time of the assault, but to establish a baseline against which to test the victim in the future. Infections and pregnancy do not show up immediately, so injury of this nature can only be determined by the follow up testing several days or weeks following the assault and initial exam. For that reason, there are some important considerations:

- If a victim knows or believes s/he already has an STI and is worried that this information could become a part of the legal process, s/he can refuse testing at the time of the evidentiary exam and go to another facility (Planned Parenthood, or a public health clinic such as the Red Door, etc.) to have the baseline tests conducted. That way if the hospital records are used for legal reasons, the court will not have records of her/his previous STI status.
- Some medical facilities do not test for STIs but routinely administer prophylactics - a heavy dosage of antibiotics to counteract any possible infection. Due to the prevalence of STIs today, it is safe to assume that

the individual was exposed to an STI. This is an acceptable and common way to respond to the threat of infection.

- It is very important for advocates to encourage a victim to go to any follow up medical exams that are scheduled. These exams, usually scheduled between 2 and 6 weeks after an act of sexual violence, can determine whether or not infection or pregnancy occurred as a result of the crime. Please see the section regarding Medical Follow-Up Care.

Name	What is it?	Signs and Symptoms	Transmission	Complications/Consequences	Prevention	Treatment
Chancroid	Chancroid is a highly contagious sexually transmitted infection caused by the bacteria <i>Haemophilus ducreyi</i> .	<ul style="list-style-type: none"> <li>- Begin 4-10 days after exposure.</li> <li>- Chancroid causes ulcers, usually of the genitals.</li> <li>- Painful and draining open sores in the genital area.</li> <li>- Painful, swollen lymph nodes in the groin.</li> </ul>	<ul style="list-style-type: none"> <li>-Vaginal Sex.</li> <li>-Oral Sex.</li> <li>-Anal Sex.</li> <li>-Skin to skin contact with infected lesions or sores.</li> </ul>	<p>If left untreated, Chancroid can:</p> <ul style="list-style-type: none"> <li>-Cause destruction of foreskin tissue on penis; and/or</li> <li>-Open sores can become infected with other germs.</li> </ul>	<ul style="list-style-type: none"> <li>-Always use latex condoms during vaginal and anal sex.</li> <li>-Use a latex condom for oral sex on a penis.</li> <li>-Use a latex barrier for oral sex on a vagina or anus.</li> <li>-Limit the number of sex partners.</li> <li>-Get tested if you suspect you have it.</li> <li>-Notify your sex partner(s) immediately if you are infected.</li> <li>-Infected sex partner(s) should be tested and treated.</li> </ul>	<ul style="list-style-type: none"> <li>-Chancroid can be cured by antibiotics.</li> <li>-Requires medication prescribed by doctor.</li> <li>-Treat partners at the same time.</li> </ul>
Chlamydia	A bacterial infection caused by the bacterium <i>Chlamydia trachomatis</i> . It is the most commonly reported bacterial STI.	<ul style="list-style-type: none"> <li>-Known as a "silent" disease, Chlamydia is symptomless at first.</li> <li>-After the disease progresses, some of the symptoms include: odorless discharge and burning during urination, and later on may lead to Pelvic Inflammatory Disease (PID).</li> </ul>	<ul style="list-style-type: none"> <li>-Vaginal sex.</li> <li>-Oral sex.</li> <li>-Anal sex.</li> <li>-From an infected mother to her baby during a vaginal birth.</li> </ul>	<ul style="list-style-type: none"> <li>- Urethritis in men.</li> <li>- PID in women.</li> <li>PID can lead to infertility and tubal pregnancy.</li> </ul>	<ul style="list-style-type: none"> <li>-Latex condoms can reduce the risk of Chlamydia.</li> <li>-Chlamydia screening is recommended annually for all sexually active women 25 years of age and younger, for older women with risk factors for chlamydia (a new sex partner or multiple sex partners), and all pregnant women.</li> </ul>	<ul style="list-style-type: none"> <li>-Can be treated and cured by antibiotics.</li> </ul>
Gonorrhea	Gonorrhea is a bacterial infection caused by the bacterium <i>Neisseria gonorrhoeae</i> .	<p>Symptoms appear within 2 days to 4 weeks:</p> <ul style="list-style-type: none"> <li>-Painful urination;</li> <li>-Pus-like discharge;</li> <li>-Bumps on the cervix -anal irritation;</li> <li>-Painful bowel movement; and/or</li> <li>-As it worsens, pain in the lower abdomen on both sides, vomiting, fever, and irregular menstrual periods occur.</li> </ul>	<ul style="list-style-type: none"> <li>-Vaginal sex.</li> <li>-Oral sex.</li> <li>-Anal sex.</li> </ul>	<p>Can lead to Pelvic Inflammatory Disease (PID), which can cause infertility and tubal pregnancy.</p>	<p>Latex condoms can reduce the risk of Gonorrhea.</p>	<ul style="list-style-type: none"> <li>-Can be treated with antibiotics.</li> <li>-Many strains of gonorrhea are resistant to antibiotics, so if symptoms persist the individual should go back to their doctor.</li> </ul>

Name	What is it?	Signs and Symptoms	Transmission	Complications/Consequences	Prevention	Treatment
Hepatitis B	Hepatitis B is a serious liver disease caused by a virus which is called hepatitis B virus (HBV).	<p>Symptoms include:</p> <ul style="list-style-type: none"> <li>-Yellow skin or yellowing of the whites of your eyes (jaundice);</li> <li>-Tiredness;</li> <li>-Loss of appetite;</li> <li>-Nausea;</li> <li>-Abdominal discomfort;</li> <li>-Dark urine;</li> <li>-Grey-colored bowel movements; and/or</li> <li>-Joint pain.</li> </ul> <p>Many people also do not display symptoms</p>	<ul style="list-style-type: none"> <li>- Sex (vaginal, anal, or oral) with an infected person and from a mother to child during childbirth.</li> <li>- Exposure to infected blood from skin puncture or contact with mucous membranes.</li> <li>-HBV is not spread through food or water, sharing eating utensils, breastfeeding, hugging, kissing, coughing, sneezing, or casual contact.</li> </ul>	May develop chronic (lifelong) infection, which increases the risk for cirrhosis (scarring of the liver), liver cancer, and liver failure.	<ul style="list-style-type: none"> <li>-The Hepatitis B vaccine is the best prevention against Hepatitis B.</li> <li>-Latex condoms may also help to reduce the transmission of HBV.</li> </ul>	There are no medications to cure HBV infection. There are antiviral drugs available for the treatment of chronic HBV infection.
Herpes, Herpes Simplex Virus (HSV)	Herpes is a viral infection caused by the herpes simplex viruses type 1 (HSV-1) and type 2 (HSV-2).	<p>Most individuals have no or only minimal signs or symptoms from HSV-1 or HSV-2 infection. When signs do occur, they typically appear as one or more blisters on or around the genitals or rectum. The blisters break, leaving tender ulcers (sores) that may take two to four weeks to heal the first time they occur. Typically, another outbreak can appear weeks or months after the first, but it almost always is less severe and shorter than the first episode.</p>	<p>HSV-1 and 2 can be found and released from the sores, but they are also released between episodes from skin that does not appear to be broken or to have a sore. HSV-2 infection is most likely during sexual contact with someone who has a genital HSV-2 infection. HSV-1 causes infections of the mouth and lips, ("fever blisters.") A person can get HSV-1 through the saliva of an infected person. HSV-1 infection of the genitals may occur by oral-genital contact with a person who has the oral HSV-1 infection.</p>	Herpes can cause recurrent painful genital sores, and herpes infection can be severe in people with suppressed immune systems. Regardless of severity of symptoms, genital herpes frequently causes psychological distress in people who know they are infected. It can also be potentially fatal for a baby who contracts HPV from its mother.	<p>The consistent and correct use of latex condoms can help protect against infection with herpes. Condoms do not provide complete protection because the condom may not cover the herpes sore(s), and viral shedding may nevertheless occur. If either you or your partner have genital herpes, it is best to abstain from sex when symptoms or signs are present, and to use latex condoms between outbreaks.</p>	<p>Since there is no treatment that can cure herpes, the infection can stay in the body indefinitely. The number of outbreaks tends to go down over a period of years, but antiviral medications can help to shorten and prevent outbreaks during the period of time the person takes the medication.</p>

Name	What is it?	Signs and Symptoms	Transmission	Complications/Consequences	Prevention	Treatment
Human Immunodeficiency Virus (HIV)/ Acquired Immune Deficiency Syndrome (AIDS)	HIV is a virus that creates a deficiency with the body's immune system. As the virus takes control of the body and the CD4 T cell count declines, AIDS develops.	Typically, a person will show no outward signs of illness. It may be years before symptoms appear. Severe flu-like symptoms may eventually appear after the initial infection as a sign that the immune system is kicking-in to fight off HIV.	HIV is spread by sexual contact with an infected person, by sharing needles and/or syringes (primarily for drug injection) with someone who is infected, or, less commonly, through transfusions of infected blood or blood clotting factors. HIV-infected women can infect their babies before or during birth, or through breast-feeding. HIV is transmitted by the following fluids: blood, semen (including pre-seminal fluid), vaginal secretions, and breast milk.	A person who has developed AIDS will eventually struggle to fight other illnesses, causing infections, some of which can be life-threatening.	Condoms may help to reduce the risk when engaging in vaginal, anal, or oral sex. Consider getting tested for HIV regularly.	There is no cure for HIV/AIDS. A variety of drugs are used to slow down the damage that HIV does to the immune system. When they are effective, these drugs reduce the amount of HIV in a person's body. The drugs do not totally rid the body of the virus.
Human Papilloma Virus (HPV)/ "Genital Warts"	Genital HPV infection is caused by Human Papilloma Virus (HPV). HPV is the name of the group of viruses that includes over 100 different types, over 30 of which are sexually transmitted. Certain types of these viruses are "high-risk". Other types of these viruses cause genital warts.	Most people don't know they are infected. Others get visible genital warts. Genital warts can be found on the vulva, cervix, in or around the vagina or anus, and on the penis, scrotum, groin, or thigh. They look like a small hard bump or cluster of bumps. They start off as small, painless spots. Some cannot be seen by the naked eye. The types of HPV that cause external genital warts are <b>not</b> linked with cancer. Two strains of HPV have been linked to cervical cancer. Generally, as many as 70 percent of all sexually experienced people may have one of many genital warts viruses; less than one percent of these infected people will develop visible warts.	The types of HPV that infect the genital area are spread primarily through sexual contact with someone who is infected.	"High-risk" HPV may cause abnormal Pap smears and cancer of the cervix, anus, and penis.	HPV can occur in genital areas that are covered or protected by a latex condom. They can also occur in areas that are NOT covered or protected. Latex condoms can reduce the risk of HPV only when the infected areas are covered or protected by the condom. In addition, the use of latex condoms has been associated with a reduction in risk of HPV-associated diseases, including genital warts and cervical cancer. The recent development of a vaccine- Gardasil-may also help to prevent the contraction of certain strains of HPV.	There is no "cure" for HPV. Diagnosis of genital warts is usually made by a direct visual exam, however, there is a magnification procedure for locating warts on the cervix. Genital warts can be treated easily with cryotherapy (dry ice treatment). Drugs like podophyllin solution and trichloroacetic acid (TCA) can also be used directly on the warts. Most women are diagnosed with HPV on the basis of abnormal Pap smears.

Name	What is it?	Signs and Symptoms	Transmission	Complications/Consequences	Prevention	Treatment
Nongonococcal Urethritis (NGU)	NGU is most often caused by Chlamydia.	Most people have no symptoms. Symptoms may develop within 1-3 weeks of exposure. There may be: clear, yellow, or white pus from the penis; discharge or burning of the vagina; burning or pain during urination.	-Vaginal sex. -Oral sex. -Anal sex. -An infected mother can also spread the germs to her baby.	-Can lead to more serious infections. -Reproductive organs can be damaged. -May lead to infertility in men and women. -Can be spread to other sex partners.	Use of latex condoms may reduce the spread of NGU.	-The bacterial causes of NGU can be cured with antibiotics. -Sexual partner(s) should be treated at the same time.
Pelvic Inflammatory Disease (PID)	PID is a general term that refers to infection of the uterus, fallopian tubes, and other reproductive organs. It is a common and serious complication of STIs, especially <a href="#">Chlamydia</a> and <a href="#">gonorrhea</a> .	Symptoms may include: -Lower abdominal pain -Fever -Unusual vaginal discharge that may have a foul odor -Painful intercourse -Painful urination -Irregular menstrual -Bleeding -Pain in the right upper abdomen (rare). Symptoms may vary from none to severe	PID occurs when bacteria move upward from a woman's vagina or cervix into her reproductive organs. Many different organisms can cause PID, but many cases are associated with <a href="#">gonorrhea</a> and <a href="#">Chlamydia</a>	-PID can damage the fallopian tubes and tissues in and near the uterus and ovaries. -Untreated PID can lead to <a href="#">serious consequences including infertility, ectopic pregnancy, abscess formation</a> , and chronic pelvic pain.	-Women can protect themselves from PID by taking action to prevent STIs or by getting early treatment if they do get an STI. -Also, regular use of latex condoms can reduce the risk.	-PID can be cured with antibiotics. -It is important not to delay treatment of PID as the consequences may worsen.
Pubic lice	Also called "crabs," pubic lice are parasitic insects found in the genital area of humans.	Symptoms include: -itching in the genital area -visible nits (lice eggs) or crawling lice.	-Usually spread through sexual contact. -Rarely, it can be spread through contact with an infested person's bed linens, towels, or clothes. -Highly unlikely to get it from toilet seats.	N/A	-Avoid sexual contact with a person who is infected with pubic lice. -Also avoid contact with an infected person's clothes, sheets, and towels.	There are a variety of treatments available for pubic lice. Some may be obtained without a prescription at your pharmacy.
Syphilis	Syphilis is a bacterial infection caused by the bacterium <i>Treponema pallidum</i> .	-May not develop for years. -Primary symptoms: sores, or "chancres" (usually firm, round, small, and painless) on the external genitals, vagina, anus, or in the rectum. Sores also on the lips and in the mouth. -Rash, fever, swollen lymph glands, sore throat, patchy hair loss, headaches, weight loss, muscle aches, fatigue and mucous membrane lesions characterize the secondary stage of symptoms.	Syphilis is passed from person to person through direct contact (vaginal, anal, or oral sex) with a syphilis sore. Pregnant women can pass it to the babies they are carrying.	If symptoms go unrecognized or untreated the following complications may arise: -Difficulty coordinating muscle movements Paralysis; -Numbness; -Gradual blindness; -Dementia; and/or -Damage may be serious enough to cause death.	-It is important that persons be screened for syphilis on an ongoing basis. -Latex condoms can help to reduce transmission.	Syphilis can be cured with antibiotics in its early stages.

Name	What is it?	Signs and Symptoms	Transmission	Complications/ Consequences	Prevention	Treatment
Trichomonas - "Trich"	Trichomoniasis or "trich" is caused by the parasite <i>Trichomonas vaginalis</i> .	Women may have no signs at all, or may have: -A frothy, creamy, yellowish or greenish discharge with itching; -Vaginal odor; -Abdominal pains; and/or - Frequent urination.  Some men may have no signs at all while others have itching and/or lesions.		N/A	Latex condoms can reduce the risk of transmission of trichomoniasis.	-Trichomoniasis can be cured with a prescription drug called metronidazole. -Treatment must be given to both partners at the same time so that they won't reinfect each other.

This section was created with the help of information from the Centers for Disease Control and Prevention, the Minnesota Department of Health, and the Minnesota AIDS Project.

*Pregnancy.* Pregnancy is a serious concern for victims/survivors of sexual assault, and approximately five percent of such cases result in pregnancy. This estimate may be different if the sexual violence included more than one act of sexual intercourse or if some form of birth control/protection was used (<http://www.rainn.org/statistics/pregnancies.html>). When the nature of the crime is such that the victim could become pregnant, then the victim may be interested in taking steps to respond to that possibility. Examples of sexual violence with risk of pregnancy include:

- Penile/vaginal penetration, however slight;
- Ejaculation in or near the vagina; and/or
- No protection or birth control method was used.

This is a response that requires immediate attention should the victim choose. Emergency Contraception (EC) is a method that can prevent the possibility of pregnancy.

- Hospitals will only prescribe EC once they have determined that the victim is not currently pregnant (a pregnancy that predates the assault.) Therefore, a pregnancy test is usually required before dispensing EC.
- EC, often called the "morning after pill," is marketed as Plan B. Plan B is similar to a high dosage of birth control pills. EC can prevent pregnancy when a woman takes it within 72 hours (3 days) of sexual contact. When taken within 72 hours, EC can reduce a woman's chance of becoming pregnant by 75-89 percent. It is important to note that EC is most effective when taken within the first 24 hours.
- EC, like ordinary birth control pills, can prevent ovulation, fertilization, or implantation before pregnancy occurs when taken within the 72 hour timeline.
- EC cannot cause an abortion or harm an already established pregnancy.
- When administered by medical professionals, EC is not typically dangerous for a woman and does not usually result in serious side-effects. The most common side-effects include nausea, vomiting, and cramping. It is important to follow the medical professional's directions.
- EC should not be confused with the drug RU-486, a non-surgical abortion option for early pregnancies. Unlike EC, RU-486 obstructs a hormone that is required for pregnancy to continue (FDA, 7/20/05).

Emergency contraception may be available through a medical facility, by prescription, or at a local pharmacy. If the victim is 18 years of age or older, she may obtain it without a prescription from some pharmacies for approximately \$40. In the case that she would like to use insurance to help her cover this cost, she will need a prescription. Some clinics are willing to keep a prescription on-hand (NARAL\*). If the victim is 17 years or under, she will need a prescription to obtain EC. She may check her local family planning clinic (such as Planned Parenthood) or with her doctor. It is important to remember that it must be taken soon in order to be effective.

During the 2007 Minnesota legislative session, MNCASA worked with NARAL Pro-Choice Minnesota to on a bill that would require emergency rooms in hospitals state-wide to provide emergency contraception (Plan B) for sexual assault victims upon request. It also requires emergency rooms to provide prophylaxis for Chlamydia and Gonorrhea. The bill passed in the House and the Senate and was not vetoed by Governor Pawlenty. All Minnesota hospitals

will be expected to comply with this new legislation. MNCASA and NARAL Pro-Choice Minnesota will begin working on a project to disseminate further information to sexual assault programs in Fall 2007. For more information about emergency contraception, please visit <http://www.prochoiceminnesota.org/s06factsheets/2003110510.shtml>

Because some medical providers consider this to be abortion-producing, there is some controversy around the provision of this service. It is important that the advocacy agency know whether the physicians are directed to prescribe this medication and if the hospital pharmacy will dispense it. In some instances, hospitals will make special arrangements to ensure that emergency contraception is available. In some instances the victim may be required to fill the prescription at another pharmacy. Work with your local medical providers and pharmacists to know where a person can and cannot obtain EC. Remember that timing is critical.  
\*<http://www.prochoiceminnesota.org/s06factsheets/2003110510.shtml>

## **HIV/AIDS and Sexual Assault**

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It is understandable that victims of sexual assault greatly fear the risk of contracting HIV. HIV, the Human Immunodeficiency Virus, is the virus that causes AIDS, Acquired Immune Deficiency Syndrome. The prevalence of HIV/AIDS has exploded and developed into an epidemic in the United States. At the end of 2003, an estimated 1,039,000 to 1,185,000 persons in the United States were living with HIV/AIDS. Perhaps even more frightening is that approximately 24-27 percent are unaware that they are infected with HIV/AIDS. Minnesota statistics indicate that a cumulative total of 7,824 cases of HIV infection have been reported in Minnesota. Of this number, 4,812 have AIDS. There have been 2,772 deaths related to AIDS.<sup>1</sup>

Because the virus is spread through blood or sexual contact with someone who has the virus, it raises special concerns for victim/survivors of sexual violence. Statistically, the possibility of becoming infected with HIV from one episode of sexual assault is low, but it is possible.

A person is at greater risk of contracting HIV if they:

- Have been repeatedly sexually assaulted (as in domestic violence, hostage situations, or rape with multiple offenders);
- Have been sexually assaulted by more than one assailant;
- Have cuts, tears, burns or inflammation of the vagina, anus, mouth, or lips;
- Are currently menstruating; and/or
- Have a sexually transmitted infection or if the attacker has a sexually transmitted infection.

The possibility of having been exposed to HIV during on-going, sexually exploitative or sexually-abusive situations means that sexual assault victim advocates need to be knowledgeable about the medical, social, psychological, and legal aspects of

HIV/AIDS if they are to assist sexual assault victim/survivors to heal. Information about HIV/AIDS and its transmission are essential for advocates to have at their disposal. It is essential for advocates to know about community resources for repeat testing and support. Sharing this information with victims can go a long way towards easing anxiety.

The following section is intended to give basic information to sexual assault victim advocates on transmission and testing for HIV/AIDS, and to introduce some of the issues it raises for victims/survivors. Sexual assault programs and advocates are encouraged to contact other community resources, especially those working directly with HIV/AIDS issues, to keep informed about new and changing information in this area, and to begin to think about the broader implications of this disease.

## General information on HIV/AIDS

AIDS or Acquired Immune Deficiency Syndrome is the result of an infection caused by the Human Immunodeficiency Virus. HIV can infect and disable cells all over the body, but primarily attacks white blood cells and T-lymphocytes, which are important to the body's immune system. When this happens, the body can no longer fight infections, and eventually the body's vital systems are damaged through other diseases that the body can no longer fight off. These diseases or infections, often referred to as "opportunistic," signal the onset of AIDS. HIV infection has become a treatable – NOT curable - disease. Persons infected with HIV may look and feel healthy, as it usually takes between five and 10 years before they develop physical symptoms of HIV infection. <sup>2</sup> The time period between becoming infected and developing symptoms is called the asymptomatic period. It is very important to understand that once a person is infected with HIV, they CAN infect others. HIV is primarily found in the blood, semen, and vaginal fluids of infected people.

A test is the only way to know whether someone has HIV, and only a doctor can diagnose AIDS. Early diagnosis and treatment for HIV infection can help improve the health and quality of life for the infected person, and give them important information about preventing the spread of HIV. It could take 2 – 3 months from the day you think you may have been infected to get an accurate test result.

## How HIV is spread

HIV is spread through blood-to-blood, or sexual contact with someone infected by the virus. The main ways that people become infected are:

- Through sharing needles or syringes with someone who has the virus;
- Through having vaginal, oral, or anal sex with someone who has the virus;
- Through exposure of a baby to an infected mother's blood during pregnancy or delivery, or — rarely—through breast-feeding; and/or
- Through receiving blood transfusions, blood components or blood clotting factors, or transplants infected with the virus (this is very rare in the United States since testing of the blood supply began in

1985).

HIV is NOT spread through casual contact with an infected person; it is not spread through the air or water.<sup>3</sup>

How likely is it that I got HIV/AIDS from the sexual assault?

Assuming that the assailant is infected with HIV and no barrier protection was used (such as a latex condom), the risk of a survivor becoming infected with HIV from the sexual assault depends on the following factors:

- Number of assailants;
- The virulence of the viral strain;
- The number of exposures;
- The kind of sexual assault (vaginal, anal, or oral);
- The violence of the attack and physical injuries it causes;
- The victim/survivor's susceptibility to infection; and
- The victim/survivor's general health status.<sup>4</sup>

If the potential exposure to HIV is the result of a single act of sexual intercourse (not combined with injected drug use, or multiple sexual acts and/or assailants), the victim/survivor's likelihood of becoming infected with HIV is low. In fact, a victim is more likely to become pregnant or contract a sexually transmitted infection or hepatitis than to become infected with HIV as a result of a one-time exposure.<sup>5</sup> Yet, since many forms of sexual assault are not one-time exposures, and other factors affect the likelihood of infection, the rate of transmission due to sexual assault is not currently known.<sup>6</sup> The only way a victim/survivor can truly determine her/his HIV status is to be tested for the evidence of HIV infection.

How is HIV testing done?

Testing for HIV is actually done by testing for antibodies. HIV antibodies are substances the body produces to fight an infection such as HIV. On average it takes most people between six to 12 weeks to develop HIV antibodies.<sup>7</sup> This period of time between when a person is exposed to HIV and when antibodies form and are detectable by current testing methods is called the window period.

The two tests currently used in the United States to test for HIV antibodies are named ELISA (Enzyme-linked immunosorbent assay, which is a screening test), and Western Blot (which is confirmatory). These tests are so sensitive that they are considered more than 99.8 percent accurate in detecting HIV-infected blood. They are also considered 99.8 percent accurate in determining who is not HIV-infected (with persons outside the window period). In the United States, specimens that show the presence of HIV antibodies with the ELISA test must be retested with the ELISA and confirmed with the Western Blot test

before testers consider the results positive. When the two tests are combined, experts predict that only one out of 100,000 uninfected people will have a false positive test result.<sup>8</sup>

### How important is it that I be tested?

Making a decision to be tested may be a difficult decision for some victims/survivors. They may fear the reaction of others within and outside their support network if the test result is positive, as the history of HIV and AIDS in the United States has included stigmatization of HIV-infected people. While HIV/AIDS education is attempting to reduce the stigmatization, victim/survivors may fear discrimination in employment, housing, or insurance,<sup>9</sup> as well as other areas. They may also be concerned about the privacy of testing and test results.

In listening to victims/survivors' concerns, sexual assault victim advocates who are knowledgeable about HIV testing can assist the victim/survivor in evaluating her or his options. Several of the reasons for victim/survivors to consider being tested are:

- To gain information in order to be in control of her or his own health. While there is currently no cure for HIV, there are some important things that can be done to help delay the destructive effects of the virus; Doctors can monitor the health of the HIV-infected person and with a range of treatments they can prevent, delay, or treat opportunistic infections and help control the virus itself. This treatment can significantly improve the quality and length of an HIV-infected person's life;
- To gain information in order to prevent the spread of HIV, during the window period, when a victim/survivor will not know their HIV status, or upon learning of a positive test result, effective pre- and post-test counseling can inform victims/survivors about measures they can take that will reduce their likelihood of infecting someone else;
- To help make informed reproductive choices; and
- Victims/survivors who are pregnant at the time of the assault, are considering pregnancy, or who become pregnant as a result of the assault deserve access to accurate information about the potential transmission of HIV to their child to enable them to take precautionary measures and/or make informed reproductive choices. This information should be given again in the pre-/post-test counseling session. Treatment for HIV during pregnancy can reduce the incidence of transmission to baby from 27 percent to 4 percent.

### When and where should I be tested?

Some of the issues to consider around testing are: accessibility to testing (location, cost), privacy of testing (location, confidential vs. anonymous testing), availability of pre- and post-test counseling, and when to be tested.

There are several reasons why being tested for HIV at an emergency room immediately following a sexual assault may not be ideal. First,

making an informed decision about testing at the point of crisis may be difficult. Furthermore, standard pre- and post-test counseling will probably be least beneficial at this point. Second, because it takes time for a person to develop antibodies to the virus, testing immediately following a sexual assault will not determine whether the victim/survivor has become infected with HIV from the sexual assault, as it takes time for the body to develop HIV antibodies (it will, however, provide a baseline). Third, a test done at the time of an emergency room visit following the sexual assault may not be confidential.<sup>10</sup> For these reasons, it may be advisable for a victim/survivor to be given the option of being tested at a later time and at a location which offers confidential or anonymous testing (see Hospital Notification and Role of the Advocate).

While being tested during the emergency room visit or at the same time as the evidentiary exam has drawbacks, there are important reasons why a victim/survivor may want to consider being tested within the first week after a sexual assault, or even during the early part of the window period. As with other sexually transmitted infections, testing at this time is often referred to as baseline testing, as it documents the victim/survivor's status at the time of the sexual assault. Baseline testing for HIV provides documentation of a victim/survivor's HIV status prior to and at the time of the sexual assault. If the victim/survivor should later test positive for HIV (after the window period), this documentation helps to substantiate the source of the HIV transmission as the sexual assault. Outside of possible claims for damages in civil court, an area which has yet to be explored, this documentation could also affect criminal charges. Currently in Minnesota, sexually transmitted infections given to the victim/ survivor during a sexual assault are proof not only of penetration, but also of injury, and may increase the severity level of criminal charges. Therefore, evidence of the transmission of HIV/AIDS through a sexual assault should increase the severity level of charges. While no case law currently exists in this area relative to sexual assault, a sexual assault in which the perpetrator knowingly and intentionally infected the victim/survivor with HIV may result in charges with a higher severity level than first degree criminal sexual conduct.<sup>11</sup>

As with other medical issues related to the sexual assault, the sexual assault victim advocate may assist the victim/survivor by providing accurate information and options. At the time of an emergency room visit, they can indicate to the victim/survivor that since there is a possibility that s/he was exposed to HIV at the time of the assault, s/he may want to consider being tested. Victim/survivors in the emergency room should be informed that they have the option of being tested at a later time and at a location which can offer confidential or anonymous testing and pre-/ post-test counseling. Persons who want documentation of their HIV status prior to the assault should consider being tested within a week of the assault, with follow-up tests at three and six months.

### Hospital notification

In Minnesota, hospitals are required by law to give written notices to sexual assault victim/survivors, or their parents or guardians when

appropriate, concerning information about sexually transmitted infections, including HIV. The notice must include information on the risk, symptoms, recommendations for testing, locations for confidential testing, and information necessary to make an informed decision about whether to request a test of the offender.

### Can the assailant be tested?

Minnesota law does allow for the sentencing court to order a convicted sex offender to submit to HIV antibody testing if the victim requests it and the prosecutor moves for the test in camera. The nature of the sexual assault also needs to be such that the victim was put at risk for exposure to HIV.<sup>12</sup> Victims/survivors should be informed, however, of the limitations of relying on an offender's test results to gain information about their own possible HIV status.<sup>13</sup>

A court order requiring the offender to submit to HIV testing becomes an option only upon conviction in Minnesota. If the victim/survivor uses this to help determine whether to be tested, it may delay important treatment and/or information necessary for the victim/survivor's health and the health of her/his partner(s). Even if this option is available and pursued, learning an assailant's HIV status cannot be an accurate indication of the victim/survivor's HIV status. The most reliable way for a victim/survivor to learn their own HIV status is to be tested themselves.

Should the court order the offender to be tested for HIV, Minnesota law specifies that "any results given to the victim or a victim's parent or guardian shall be provided by a health professional that is trained to provide HIV test-related counseling." Results are available, upon request, to the victim, or if the victim is a minor, to their parent or guardian, and positive test results will be reported to the Commissioner of Health.<sup>14</sup>

### Role of the sexual assault counselor/advocate<sup>15</sup>

While individual programs providing services to sexual assault victims/survivors will need to develop policies and procedures for responding to HIV/AIDS in their agencies and work with victim/survivors, the following are some suggestions to consider:<sup>16</sup>

- Incorporate information or discussion about HIV/AIDS with victims/survivors where and when appropriate. This may mean raising the topic prior to being tested at the emergency room, it may be when the victim/survivor raises the issue, or it may be in the context of talking about other health concerns, such as pregnancy, and other sexually transmitted infections. While each situation may be somewhat unique, guidelines and discussions with sexual assault programs about appropriate ways to handle this information can increase an advocate's comfort with addressing this topic.
- Remember that there are many forms of sexual violence. Consider how HIV/AIDS may relate to the different forms. Current HIV/AIDS prevention education makes assumptions that people receiving the education feel some amount of ownership over their own sexuality

and their own bodies. It also assumes that all people are able to assert themselves safely, and that their wishes will be respected. This may not be true for every victim/survivor.<sup>17</sup> The sexual assault counselor/advocate aware of these issues will be able to help address barriers for some victims/survivors in reducing their risk of exposure to HIV or preventing HIV transmission.

- Check out the victim/survivor's existing knowledge and awareness of HIV/AIDS. Also ask about her/his beliefs and values associated with HIV and AIDS. Since discussing these topics means dealing with issues which are very culturally linked—sexuality, health, illness, and dying—this discussion will help you be sensitive to and work within the victim/survivor's own cultural context. As with issues of STIs or pregnancy, determining her/his level of comprehension and existing knowledge will also help you guide the discussion appropriately.
- Be knowledgeable about HIV/AIDS, and provide accurate and well-timed information. While wondering about possible HIV infection may be an overwhelming component of the victimization, good information can assist the victim/survivor in regaining control.
- Also consider how different forms of oppression (i.e. ableism, classism, heterosexism, racism, sexism, etc.) affect our understanding and knowledge of HIV/AIDS as well as our work with individual victims/survivors.
- Learn the facts and keep informed. Information about HIV/AIDS changes rapidly as more is being discovered about the virus and the disease. And as more and more people become infected with HIV and develop AIDS, the social, legal, ethical, and psychological dimensions of the epidemic develop as well. (See the resource section at the end of this section for further information.) Many of these organizations have excellent brochures and other resources that may be useful in presenting basic HIV/ AIDS information to victims/survivors.
- Be prepared to discuss HIV/AIDS-related anxiety during and throughout the victim/survivor's healing process. And, if the victim/survivor does become infected with HIV, be prepared to assist in making appropriate referrals and provide support.
- Dialogue with people working on HIV/AIDS issues. Since most of the HIV/AIDS prevention education currently being done assumes equal power in sexual situations, sexual assault victim advocates must get involved in developing prevention strategies and language which demonstrate sensitivity to and awareness of the prevalence of sexual violence. This may involve talking with people in your community doing HIV/AIDS prevention education, providing support to HIV infected people and persons –with AIDS and those doing testing for HIV— including physicians and others doing pre-and post-test counseling. Ultimately, this will increase the effectiveness of HIV/ AIDS prevention efforts and assist sexual assault victims/survivors.
- Sexual assault victim advocates are accustomed to providing information and support for victims/survivors in relation to difficult issues. With training on HIV/AIDS, we can further assist victims/survivors in their healing from sexual violence, and advocate for responsive HIV/AIDS policies and procedures.

As an advocate, how do I discuss HIV/AIDS with victims/survivors?

The following are some suggestions:

- Review the victim/survivor's risk and desire to take the test;
- At the appropriate time, explain testing and transmission, including the pros and cons of being tested. Discuss limitations and specifics of testing, especially of the offender. Inform of options regarding where and when testing can be done, and stress the importance of good pre-/post-test counseling.
- Support the grief and loss with this dimension of the sexual assault. Allow the victim/survivor to discuss how the concern of HIV/AIDS has affected them;
- Answer questions and provide referrals for more information and/or support, including risk-reduction strategies for transmission during the waiting period; and
- Consider the medical, psychological, and financial needs of the victim/survivor before, during, and after the testing period. Make referrals when appropriate.

#### End Notes

1. For current statistics contact the CDC National AIDS Hotline at 1-800-342-AIDS or the Minnesota AIDS Project at 1-800-248-AIDS.
2. "As of 1988, scientists say that 25 percent to 50 percent (or more) of all HIV-infected people will develop AIDS within five to ten years of infection." (The American National Red Cross, American Red Cross HIV/AIDS Instructor's Manual, p. 97.) Estimates vary, however; as more is being learned about HIV and AIDS. In "Part I: What we know after 10 years of AIDS," Rosemary Cashman writes that the asymptomatic interval (here called the incubation period) averages between nine and 10 years. (Mayo today, p. 9.)
3. The American National Red Cross, *Ibid.*, p. 129,
4. Center for Women's Policy Studies, *More Harm Than Help: The Ramifications for Rape Survivor of Mandatory HIV Testing for Rapists*, p. 4 and Notes.
5. Barbara A. Nissley, Policy Issue Paper #J: *Acquired Immunodeficiency Syndrome and Victim of Sexual Violence*, p. 5.
6. In 1990, medical reporter Victoria Brownsworth extrapolated that the risk for contracting HIV infection as a result of rape by an assailant whose HIV status is unknown at six percent. This is higher than the estimate of two percent which has been given as the chances for infection from a one-time exposure. While based on scientific data, Brownsworth's estimate is more speculative than scientific. More research clearly needs to be done on this area. (Center for Women's Policy Studies, *Ibid.*, p. 7).
7. The American National Red Cross, *Ibid.*, p. 176, Dr. Rodney Thompson, chair of the Mayo Clinic Rochester Infection Committee, believes that the window period may vary with the type of exposure and among individuals. He estimates that the "average" window period may be two to three months. (Cashman, p. 9)
8. The American National Red Cross, *Ibid.*, p. 173.
9. Minnesota Statutes, § 72A.20, subdivision 29 attempts to protect

crime victims and offenders who are tested for HIV from discrimination by insurers. It also requires that an authorization for the release of medical records for insurance purposes must exclude any test for the purpose included in this statute, regardless of whether the exclusion is expressly stated. See Minnesota statutes, section 72A.20 subdivision 29, for precise wording.

10. If the victim/survivor chooses to report the sexual assault to law enforcement, they may be asked to sign an authorization to release records related to an evidentiary exam, as this information is often an important part of the investigation. Once these records become part of the criminal investigation it may be difficult to ensure the victim/survivor's privacy relative to the test.
11. From conversations with Lieutenant Roger Peterson, Rochester Police Department, Rochester, Minnesota, 17 August 1993.
12. See Minnesota Statute 611A.19, subdivision 1.
13. "Because of the potential for false test results and the delays in antibody formation, the American Public Health Association believes that relying on an offender's HIV test results is not an appropriate standard of care for rape survivors." Quoted in Center for Women Policy Studies, p. 13, where there is an excellent discussion of this issue.
14. See Minnesota Statute 611A.19 subdivision 2. The statute further explains the privacy of the information.
15. Barbara Nissley's paper explores this in much more detail. Sexual assault programs are encouraged to get a copy of the paper and discuss implications for program guidelines and policies.
16. Also see Barbara Nissley, Policy Issue Paper #3: Acquired Immune Deficiency Syndrome and Victim\*) of Sexual Violence, and Diane Alexander, "HIV/AIDS and Victims," for further information.
17. Liz Galst, "Assumptions of HIV/AIDS Prevention Education: Interviews with Gay Male Incest Survivors," SEICUS Report, April/May 1993, p. 19. For more information on how sexual abuse relates to HIV/AIDS, see the other articles in the April/May 1993 issue of this same report.

## Additional Resources

American Red Cross —  
St. Paul Chapter  
176 South Robert Street  
St. Paul, MN 55107  
(612)291-6711 or your local Red Cross

Minnesota AIDS Project  
2025 Nicollet Avenue S.,  
Suite 200  
Minneapolis, MN 55404  
612-341-2060

Minnesota Coalition Against Sexual Assault (MNCASA)  
161 St Anthony Ave Suite 1001  
St Paul MN 55103

1-800-964-8847, (651)209-9993

National AIDS Information Clearinghouse  
P.O. Box 6003  
Rockville, MD 20849-6003  
(301)251-5641  
(800)458-5231

Rural Aids Action Network (RAAN)  
208 NE 2nd St  
Little Falls MN 56456  
800-966-9735

Toll-free lines:

Minnesota AIDS Project: 1-800-248-AIDS

National AIDS Hotline: 1-800-243-7321

1-800-344-SIDA (Spanish)

1-800-243-7889 (TTY/TTD)

National Gay Task Force Hotline: 1-800-221-7044 (M-F 12-6 p.m.,  
EDT)

National Victim Center Service 1-800-FYI-CALL (Information &  
Referral Service)

The HIV/AIDS Treatment Information Service (ATIS) is a central resource for Federally approved treatment guidelines for HIV and AIDS. ATIS is staffed by multilingual health information specialists who answer questions on HIV treatment options, using a broad network of Federal, national, and community-based information resources. Callers can reach this confidential, personalized service at 1-800-H I V-0440 (1-800-448-0440). More information is available online at [www.hivatis.org](http://www.hivatis.org).

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- Timothy C. Baker et al, "Rape Victims' Concerns About Possible Exposure to HIV Infection," *Journal of Interpersonal Violence*, March 1990, pp. 49-60,
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- Rosemary Cashman, "Part I: What We Know After 10 Years of AIDS," *Mayo Today*, vol 2, no. 11, November 1991, pp. 8 - 11. (Mayo Foundation for Medical Education and Research. Communications, Mayo Clinic, 200 First Street SW, Rochester, MN 55905.)
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- Centers for Disease Control, U.S. Public Health Service, *America Responds to AIDS: Voluntary HIV Counseling and Testing: Facts, Issues, and Answers*, September, 1991.

Center for Women Policy Studies, *More Harm Than Help: The Ramifications for Rape Survivors of Mandatory HIV Testing of Rapists*, (Center for Women Policy Studies, 200 P Street, NW Suite 508, Washington, DC 20036, 1991).

Norman Fost, "Ethical Considerations in Testing Victims of Sexual Abuse for HIV Infection," *Child Abuse and Neglect*, vol. 14, 1990, pp. 5-7.

Lynda M. Frattaroli, "HIV Infection and Sexual Assault," *FOCUS*, November, 1989, p.3,

George A. Gellert, Michael J. Durfee and Carol D. Berkowitz, "Developing Guidelines for HIV Antibody Testing Among Victims of Pediatric Sexual Abuse," *Child Abuse and Neglect*, vol 14, 1990, pp. 9-17.

Bea Hanson, "Testing the Limits of Testing: HIV and Sexual Assault," *SEICUS Report*, April/May, 1993, p. 8.

Cathy Kidman, "Non-Consensual Sexual Experience and HIV Education: An Educator's View," *SEICUS Report*, April/May 1993, pp. 9-12.

Minnesota AIDS Project, *Resource and Referral Directory*, February 1990.

Minnesota Statutes Annotated, *Cumulative Annual Pocket Part*, vols. 7A, 40, (St. Paul, Minn.: West Publishing Company, 1993).

National Victim Center and the Crime Victim's Research and Treatment Center; *Rape In America: A Report to the Nation*, April 1992.

National Victim Center, "HIV/AIDS and Victim Services," *Infolink*, vol. 1, no. 25, 1992.

Barbara A. Nissley, *Policy Issue Paper #3: Acquired Immune Deficiency Syndrome and Victims of Sexual Violence*, (Pennsylvania Coalition Against Rape, 2200 North Third Street, Harrisburg, PA 17110, August, 1988).

## Drug Facilitated Sexual Assault (DFSA)

Increasing concern that drug facilitated sexual assaults are being missed led a multidisciplinary group of advocates, law enforcement, and medical personnel, prosecutors, and scientists from the Bureau of Criminal Apprehension to create protocols that encourage practitioners to aggressively pursue evidence collection and investigation to document the use of alcohol and other drugs to facilitate sexual assault.

### Drug Facilitated Sexual Assault – A Definition

Drug facilitated sexual assault involves sexual assault which is accomplished by means of any substance, ingested intentionally or unintentionally by the victim, which incapacitates or renders the victim physically helpless.

This protocol recognizes that, at the time a sexual assault medical exam is performed, the medical personnel have some but not all of the information ultimately obtained regarding the circumstances of the alleged sexual assault. Later investigation by law enforcement may develop information which raises the question whether the victim had ingested, knowingly or unknowingly, a substance which may have contributed to the occurrence of the alleged sexual assault. Preservation of those samples will further the ability of law

enforcement to investigate the sexual assault complaint.

This protocol also recognizes that many of the common substances used to facilitate sexual assault are eliminated very quickly by the body, and may be detectable only briefly after the arrival of the victim at the medical facility. Obtaining and preserving those samples immediately enhances the likelihood that such substances will be detected when testing is performed.

## Application

In speaking with a sexual assault victim, the advocate may become aware that the victim is describing symptoms consistent with incapacitation due to intentional or unintentional alcohol or drug ingestion. As with all information, advocates should use care in reacting and suggesting options to ensure that they not unreasonably alarm a victim/survivor who already may be in crisis.

If it appears appropriate and the advocate believes the victim is capable of handling the information, however, the advocate should encourage the victim to wait to void his/her bladder until arriving at the medical facility for a sexual assault exam.

At the time the medical exam is performed, the newest recommendation by the BCA is that a urine and/or blood sample will be collected at the outset of each exam, regardless of whether it appears to be a DFSA or not. Advocates should be very clear with clients that, as with any other portion of the medical/forensic exam, they have the right to refuse to provide a urine and/or blood sample, and yet continue with the remainder of the exam if they so desire.

In the following situations, however, the advocate should encourage the client to collect the first bladder void herself/himself immediately:

If the victim is either unsure about reporting to an emergency room; or if there is any possibility that the victim absolutely must void before reporting to the emergency room.

Urine samples may be collected in any container with a lid. Sterility is not required, but the victim should avoid using any container that might have once held other drugs, such as a pill bottle. The lid should be kept in place and the container should be refrigerated until the victim either speaks to law enforcement or goes to a medical facility. If possible, tape should be placed over the top of the lid with the date, time, and the victim's initials (to show that the lid was not tampered with).

Work with law enforcement and prosecution in your jurisdiction to gain their cooperation in agreeing not to charge victims reporting sexual assault with any offenses relating to the consumption of alcohol or substances. Advise victims that they will not be prosecuted if law enforcement discovers such offenses. Advocacy programs are encouraged to implement public education and information to raise awareness of the urgent necessity of collecting the first bladder void in cases where victims suspect drug facilitated sexual assault.

## Drug Facilitated Sexual Assault: How Advocates Can Assist Victims/Survivors

What is drug facilitated sexual assault?

Drug facilitated sexual assault (DFSA) is taking advantage of the use of alcohol or other drugs which render a victim incapacitated or physically helpless in order to accomplish a sexual assault. DFSA can occur when an offender “slips a Mickey” to the victim – or secretly drugs a victim. It can also occur if the victim knowingly ingests alcohol or other drugs but does not consent to sexual assault.

Does DFSA really happen?

Advocacy programs and medical personnel around Minnesota are reporting that the number of victims describing inexplicable intoxication and blacking out is increasing. In 2000, almost 5,000 emergency room visits were recorded nationwide as a result of the use of GHB, a common drug used to facilitate sexual assault. The evidence needed for the criminal justice system has been difficult to collect, however, and criminal charges of this type have likely not increased correspondingly to the increase in incidents.

Why are DFSA cases so difficult for prosecutors and law enforcement to address?

Numerous factors can work against the investigation of a suspected DFSA case. Initially, the victim was likely blacked out and has no memory of the events during, or even before the sexual assault. S/he may be groggy for a long period of time after waking up, and may delay reporting the incident.

The drugs commonly used to secretly incapacitate a victim eliminate very quickly from the body – some as quickly as eight hours from ingestion. They may not be present if the victim reports to the emergency room a day after the assault.

Finally, without evidence of drugs or the quantity of alcohol in a victim’s system, juries may have a difficult time knowing just how helpless the victim may have been when she was assaulted – making a consent defense by the offender more likely to succeed.

What can be done to improve the collection of the vital evidence of drugs or alcohol in the victim’s system?

The Bureau of Criminal Apprehension (the state crime lab) is now recommending that a urine and blood sample be collected from every person who is given a sexual assault forensic exam, regardless of a report of DFSA symptoms. The samples should be collected at the very beginning of the exam, and refrigerated until a decision can be made to have them tested for the presence of drugs.

What if a victim has voluntarily ingested?

It is imperative that victim advocates work with their local law enforcement and

prosecution to gain an agreement that minors who use alcohol or drugs, or people who use recreational drugs will not be prosecuted for those violations of the law. This will help ease the concern of victims that their drinking or drug use detected in the urine sample will not be used against them. For best practices protocols for systems agencies, contact SVJI.

What can victim advocates do to assist victims in these circumstances?

The most important thing for advocates and volunteers to know is that the FIRST BLADDER VOID IS CRUCIAL. Thus, in speaking with victims who have been recently assaulted, encourage them to either wait to urinate at the ER, or collect the first bladder void in a jar to bring in with them. This urine sample may be the only thing which contains the evidence to show that they were drugged. Discuss concerns the victim may have regarding the urine sample. Remember the victims concerns are valid, and you are there to assist them in making an informed decision. The victim may refuse the urine or blood sample altogether. Support the victim and her/his decisions. You are there to assist the victim, not make decisions for him/her. It is crucial that you explain the importance of a urine sample in the investigative process. In doing this, make sure not to instill unnecessary fear in the victim. If the victim does not feel s/he was drugged, explain it as standard procedure for the forensic exam.

What can victim advocates and programs do to educate the community about the need for immediate collection of this evidence?

Victim advocates can do much in their communities to educate on the issue of DFSA and the importance of the first bladder void. For example:

- Emphasize the importance of the first bladder void in cases of DFSA to volunteers in the initial advocate training process. Revisit the issue during follow-up trainings. Also, check with crisis line volunteers periodically about the issue and reiterate the importance of discussing the issue of DFSA with victims on the crisis line;
- When doing local sexual violence presentations/trainings to schools, churches, or other organizations, stress the frequency of DFSA;
- Make pamphlets, brochures, posters, or stickers with your program information and information on DFSA and make them available at schools, medical facilities, law enforcement agencies, bars, etc. It maybe especially useful to put them in or near restrooms; and
- When training local professionals include discussions regarding the importance of collecting this evidence.

From the Sexual Violence Justice Institute, [www.mncasa.org](http://www.mncasa.org), June, 2004.

*What to do if you suspect that you or someone else has been drugged:*

- Call 911 or go to the hospital emergency room;
- Request a urine test for Rohypnol and/or GHB;
- Rohypnol can be detected in the urine for up to 60-72 hours after ingestion; and

- GHB can be detected in the urine for up to 48-72 after ingestion.
- If the urine test is being requested in conjunction with a sexual assault, a free test can be requested.
- The free, national testing service has been created by Hoffman La Roche, the manufacturers of Rohypnol, and is performed by El Soy Laboratories.;
- The free testing service can be accessed by law enforcement, emergency room personnel, and by rape crisis centers investigating cases of sexual assault;
- The free testing service provides screening for a variety of prescription and non-prescription medication (e.g. benzodiazepines, marijuana, amphetamines);
- The urine sample must be taken by a medical professional following chain-of-custody procedures;
- The lab follows chain-of-custody procedures to preserve the results as legal evidence; and
- The lab will share the results with the medical professional in approximately one week.

<http://www.washington.edu/students/saris/office/Substances.html>

## Follow-Up Medical Care

After the initial visit to the Emergency Room, a victim of sexual assault most likely will be asked to go to their doctor or a community clinic such as Planned Parenthood for follow-up medical care. A victim/survivor can expect to visit a doctor approximately:

2-3 weeks after the assault

- Testing for possible STIs acquired from the assault; and
- Testing for pregnancy as a result of the assault.

3 and 6 months after the assault

- The victim should seek testing for HIV/AIDS if s/he is concerned s/he may have been exposed. There are many places where s/he can do this for free or for a small donation.

### Bringing it Home:

- Are you familiar with the hospital you'll be responding to?
- Does your local hospital have a SANE on-call, or will the exam be performed by an ER doctor or nurse?
- Are you clear on your county's policy regarding payment for evidentiary exams?
- Is there any history of your program's relationship with the hospital, good or bad?



# HIV/AIDS Glossary

<b>AIDS</b>	Acronym for <i>Acquired Immuno-Deficiency Syndrome</i> . A person with HIV can develop AIDS when their HIV disease is advanced. AIDS occurs when the immune system of someone with HIV has deteriorated to the point where they are developing <i>opportunistic infections</i> (see definition). People with an AIDS diagnosis can still live for years, depending on their medical care, self care and the severity of their opportunistic infections.
<b>Anonymous Testing</b>	A way to test for HIV that does not use any identifying information (such as a name) that could link the test results to the person being tested. Only the person being tested can find out their test results by use of a testing code that will be assigned to them. In the state of Minnesota, anonymous testing is prohibited (Minnesota AIDS Project).
<b>Antibodies</b>	Also known as immunoglobulin. They are proteins produced in the body's immune system that identify and fight infectious organisms and other foreign materials that enter the body, such as viruses, bacteria, fungi, and parasites. Usually antibodies defend the body against these disease agents; however, the HIV antibody does not give such protection (Red CroM, p.263, & AIDSinfo).
<b>Asymptomatic Period</b>	The period from the point of infection to the onset of symptoms. It may take up to 15 years for people with HIV to develop AIDS.
<b>Baseline Testing</b>	Refers to HIV testing done around the time of the sexual assault to determine and/or document the victim/survivor's HIV status at the time of the assault.
<b>Confidential Testing</b>	<p>A way to test for HIV that will ask for a first name or full name. The individual being tested may also provide an identifying code as a condition for testing. Many confidential testing sites will not ask to see any ID, so the individual can choose whether to use their actual name or not. If a real name is used the test results may be recorded in her/his medical file by the physician who does the test. The test results will not be revealed without written permission from the person being tested, except as is required by state law. Minnesota does require that positive test results be reported to the State Department of Health. The testing site will ask for your name, address and telephone number to make the report. You are not required to provide this information, and if you choose not to, the testing site will simply report the positive result to the Department of Health. This information is used for statistical and public health purposes. Specific information about you is not available for public use for any reason.</p> <p>These records are kept confidential (Minnesota AIDS Project).</p>

<b>ELISA</b>	Acronym for enzyme-linked immunosorbent assay, a blood test used to detect the presence of antibodies to HIV. Results of an ELISA test showing the presence of HIV antibodies must be confirmed by the Western Blot before a person is considered HIV-infected. Sometimes abbreviated as E1 A (Red CroM, p.266).
<b>HIV</b>	Acronym for <i>Human Immunodeficiency Virus</i> . HIV is a <i>retrovirus</i> (see definition) transmitted through via blood, semen, vaginal fluid and breast milk.
<b>In camera</b>	In chambers, in private. The issue will be heard by the judge either in her private chambers or when all spectators are excluded from the courtroom (Blacks Law Dictionary, 5 <sup>th</sup> ed., p. 684).
<b>Incubation</b>	The period between infection and the onset of symptoms (Red CroM, p.98).
<b>Opportunistic</b>	Referring to a variety of diseases or infections that occur in people who do not have fully functioning immune systems. These same diseases or infections either do not occur or are more easily controlled if a person's immune system is not weakened by HIV.
<b>Opportunistic Infections</b>	<p>The Centers for Disease Control and Prevention has identified opportunistic infections that regularly occur in people with advanced HIV disease and are an implication that the immune system is extremely compromised. They include:</p> <ul style="list-style-type: none"> <li>• Pneumocystis carinii pneumonia: <i>pneumonia caused by a fungal organism that is widespread in our environment but does not cause illness in individuals with a healthy immune system.</i></li> <li>• Toxoplasmosis: <i>Disease caused by a parasite; this parasite is found in more than 60 million people in the U.S. but most do not get sick from it.</i></li> <li>• Tuberculosis: <i>A bacterial lung infection spread through the air. Anyone exposed to tuberculosis should see a doctor for treatment.</i></li> <li>• Extreme weight loss and wasting (atrophy and shrinkage of muscle); exacerbated by diarrhea which can be experienced in up to 90% of HIV patients worldwide.</li> <li>• Meningitis and other brain infections: <i>Inflammation of the tissue surrounding the brain and spinal chord. Can be bacterial or viral.</i></li> <li>• Fungal infections: <i>Including thrush and other oral infections, yeast infections, and skin fungal infections. These occur chronically in someone with a compromised immune system.</i></li> <li>• Syphilis: <i>an STI caused by bacteria that has 4 stages. Syphilis can be treated if caught in an early stage.</i></li> <li>• Malignancies such as lymphoma, cervical cancer and other types of cancer, including Kaposi's Sarcoma, <i>a cancer of the connective tissue in the body.</i></li> </ul>
<b>Pre-test Counseling</b>	Given by trained counselors at specific testing sites prior to an HIV test. The counselor will provide basic information about the HIV test, and its benefits and consequences. They will also explain HIV/AIDS and the ways it is spread, prevention, and confidentiality of test results. The counselor will also ask what impact the test results will have on her/him, what kind of support system the individual has, and what to do if the results indicate HIV infection (CDC, Voluntary HIV Counseling & Testing: Facts, Issues and Answers, Sept. 1991 & 1999).

<b>Post-test Counseling</b>	Given by trained counselors at specific testing sites after the HIV test. Counselor gives test results and, regardless of the results, provides information on protecting their health and the health of others. If the results are negative they will discuss re-testing at an appropriate time, especially if the individual engaged in behaviors that put them at risk in the three months prior to the test. If the test is negative, they will also discuss ways to remain HIV-negative. In the case of a positive test result, the counselor will assess the individual's understanding of the results and their emotional response. They will also provide information about how to avoid transmitting the virus to others, treatment options, follow-up care and support services, and self-care (CDC, 1999). A blood test used to detect antibodies to HIV. It is used to confirm ELISA results.
<b>Retrovirus</b>	A virus that contains an enzyme called Reverse Transcriptase, which allows the virus to convert its RNA to DNA and then integrate, and take over, a cell's own genetic material. Once taken over, the new cell - now HIV infected - begins to produce new HIV retroviruses. HIV replicates in and kills the helper T cells, which are the body's main defense against illness.
<b>Western Blot</b>	A blood test used to detect antibodies to HIV. It is used to confirm ELISA results.
<b>Window Period</b>	Time between an exposure to HIV and when antibodies form and are detectable by the ELISA and Western Blot tests for HIV antibodies. This time can vary among people, and may be different depending on the exposure. Most experts estimate the window period to be between six to 12 weeks.



# HIV Testing Sites in Minnesota

The following is a list of confidential testing sites in the state of Minnesota. The list is by NO means exhaustive. You may also contact your physician for an HIV/AIDS test if you choose.

African American AIDS Task Force  
310 E. 38<sup>th</sup> St.  
Minneapolis, MN 55409  
612.825.2052  
Hours: Mon-Fri. 8:30 a.m. - 4:30 p.m.; call ahead; no fee.

African Health Action\*  
1931 1st Ave. S., Suite 100  
Minneapolis, MN 55403  
612.229.2679  
Testing free.  
Services available in French, Pidgin, Bamileke, Mina and other Cameroonian dialects.  
\*Formerly Zyombi International Project

AIDS Resource Center of Wisconsin - Superior  
Board of Trade Building  
1507 Tower Ave., #230  
Superior, WI 54880  
715.394.4009 or 877.242.0282  
[www.arcw.org](http://www.arcw.org)  
Free; does not need to be a WI resident.

Annex Teen Clinic  
4915 N. 42<sup>nd</sup> St.  
Robbinsdale, MN 55422  
763.533.1316  
Call to make an appointment; fees are based on a sliding fee scale.

Cedar Riverside People's Center  
425 S. 20th Ave.  
Minneapolis, MN 55454  
612.332.4973

Community University Health Care Center (CUHCC)  
2001 S. Bloomington Ave.  
Minneapolis, MN 55404  
612.638.0700

Delaware Street Clinic  
Fairview-University Medical Center  
420 Delaware St.  
Minneapolis, MN 55455  
612.625.4680

The Doctors Uptown  
1300 Lagoon Ave., Ste 200  
Minneapolis, MN 55408  
612.284.1772

Face to Face Health & Counseling Services  
1165 Arcade St.  
St Paul, MN 55106  
651.772.5555

Family Tree Clinic  
1619 Dayton Ave, Suite 205  
St Paul, MN 55104  
651.645.0478

Healthcare for the Homeless  
525 Portland Ave., Level 3  
Minneapolis, MN 55415  
612.348.5553

Healthcare for the Homeless  
438 Main Street  
St Paul, MN 55102  
651.290.6814

Indian Health Board of MPLS  
1315 E. 24th St.  
Minneapolis, MN 55404  
612.721.9800

Indigenous Peoples Task Force  
1433 East Franklin Ave., Suite 18A  
Minneapolis, MN 55404  
612.870.1723  
or  
Brainerd, MN  
877.317.8246

Lake Superior Community Health Center  
2 East 5th St.  
Duluth, MN 55805  
218.722.1497

Leech Lake Band of Ojibwe  
Health Division  
116 2<sup>nd</sup> St NW, Suite E  
Cass Lake, MN 56633  
218.335.4500 or 800.282.3389  
\* Members of the Native American community.

Minnesota AIDS Project  
1400 S. Park Ave  
Minneapolis, MN 55404  
612.373.2437

Olmsted County Public Health Service  
2100 Campus Drive SE  
Rochester, MN 55904  
507.285.8370  
[www.olmstedcounty.com/publichealth/](http://www.olmstedcounty.com/publichealth/)  
Testing by appt only, limited weekdays; insurance not accepted - cash, check, or medical assistance okay.

Outlook Clinic  
651.674.4570  
[www.outlookclinic.com](http://www.outlookclinic.com)  
\* Locations in Mora, Cambridge, Chisago City, and North Branch.  
Appointments encouraged; \$10-15 fee.

Planned Parenthood  
800.230.7526 (to locate nearest clinic)  
[www.ppmns.org](http://www.ppmns.org)  
Testing available at all Planned Parenthood sites; accepts public assistance and Medicaid; they do work on a sliding fee scale, but testing costs may still be considerable.

Red Door Clinic  
525 Portland Avenue  
Minneapolis, MN 55415  
612.348.6363  
Testing: Mon. 11:00 a.m. – 7:00 p.m., Tues-Fri. 8:00 a.m. – 4:00 p.m.; cost: donations are requested, but if you are unable to pay, the test will be free of charge.

Rural AIDS Action Network (RAAN)  
208 NE 2nd St.  
Little Falls, MN 55456  
800.966.9735  
\*Also in Willow River, Bemidji, Hibbing, and Alexandria

Room 111 Clinic  
555 Cedar Street, Floor 1  
St. Paul, MN 55101  
651.266.1357

Southside Community Health Services  
2431 S. Hennepin Ave,  
Minneapolis, MN 55407  
612.822.3186

Uptown Community Clinic  
4730 Chicago Ave.  
Minneapolis, MN 55405  
612.374.4089

West Side Community Health Services  
153 Cesar Chavez Street  
St. Paul, MN 55107  
651.222.1816  
Testing available Monday-Friday 8:00 a.m. –  
5:00 p.m.; \$16 blood draw fee.

SEMCAC Family Planning & STI Clinic  
76 3rd St. W.  
Winona MN 55987  
507.452.4307 or 800.657.5121  
[www.semcac.org](http://www.semcac.org)  
Sliding fee scale.

Women's Health Center  
32 E 1st St., Suite 300  
Duluth, MN 55802  
800.735.7654