Sexual Abuse in the Elderly / Dependent Adult Population

MDDA MAUREEN DUMOUCHEL

ELDER ABUSE SYMPOSIUM

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Special Thanks…

- Scott Modell, Ph. D.
- DDA Michael Matoba, Los Angeles County District Attorney's Office
- Dr. Sean Dugan, Shasta Community Health Center Redding

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Fun Fact: Older People Still Like Sex!

- U.S. study taken from people aged 75–85 years who were sexually active, 54% reported having sex two or three times per month and 23% reported having sex one or more times per week
  - A study of sexuality and health among older Americans in the United States. *New England Journal of Medicine.* 2007; **357**: 762-774
- In an American Association of Retired Persons' Healthy Aging Poll of individuals aged 65–80 years, two-thirds said they were interested in sex and more than 50% said sex was important to their quality of life.
  - Let's talk about sex. University of Michigan National Poll on Health Aging. http://hdl.handle.net/2027.42/143212

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Not So Fun Fact…

- STD rates in people of 55 years or older is increasing (Gonorrhea, Syphilis & Chlamydia)
  - 3.5 / 100,000 cases in 2010 to **17.2 / 100,000 cases in 2020**
  - National Center for HIV, Viral Hepatitis, STD, and TB Prevention Atlas.gis.cdc.gov/grasp/nchhstpatlas/tables.html

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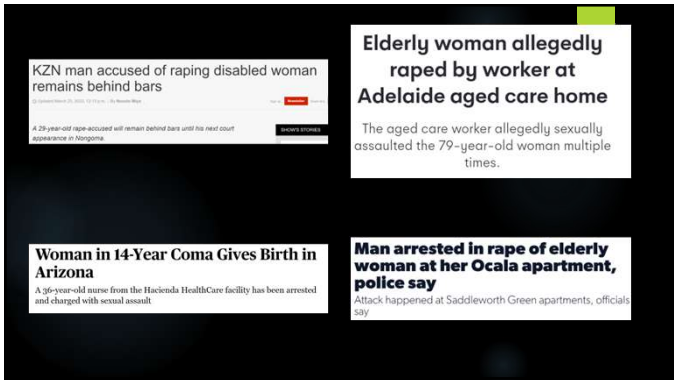

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Important Things to Know

- A spouse can rape their spouse
- There is no requirement to fight someone off or physically resist
- Consent can be withdrawn
- People with Dementia & Intellectual Disabilities can consent to sex BUT are also the group most likely to be sexually assaulted!
- Sexual assault victims will have trauma as a result and services need to be offered

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Definitions

Sexual Intercourse	Oral Copulation	Sexual Penetration	Sodomy
• Any penetration, no matter how slight, of the vagina or genitalia by the penis	• Any contact, no matter how slight, between the mouth of one person and a sexual organ/anus of another person	• Penetration of the genitalia, no matter how slight, that's accomplished by using a foreign object, substance, instrument, or device, for purpose of sexual abuse, arousal or gratification	• Any penetration, no matter how slight, of the anus of one person by the penis of another person

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Types of Sexual Assault Crimes

- PC 220(b): Assault w/ Intent to Commit
- PC 261: Rape
- PC 286: Sodomy
- PC 287: Forced Oral Copulation
- PC 288: Lewd Acts
- PC 289: Digital Penetration
- PC 243.4(b): Sexual Battery on Institutionalized Victim
- PC 314: Lewd or Obscene Conduct
- PC 647(a): Lewd Conduct in public
- PC 647(j): Peeping, revenge porn, etc.

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Accomplished (Rape, Sodomy, Oral Copulation, Sexual Penetration) by…

- Force
- Violence
- Duress
- Menace
- Fear of immediate injury to self or others
- Future threats or bodily harm or threat to retaliate
- Threat of official action to use authority of public office to incarcerate, arrest, or deport

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Disabled Victim

- Victim had a mental disorder/developmental or physical disability that prevented him/her from legally consenting;
- Defendant knew, or reasonably should have known, victim had mental disorder/ developmental or physical disability.
- Someone is prevented from legally consenting if he/she is unable to understand the act, its nature, and possible consequences.

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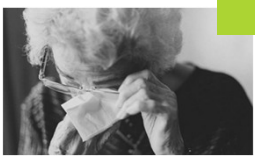
Sexual Assault Facts

- Most identified older victims are female but there are also male victims. (1)
- Vaginal injuries occur more frequently in post-menopausal women than in younger rape victims. (2)
- Older victims are more likely to be admitted to a hospital following an assault. (3)
- Victims from 60-100 years of age experienced psychosocial trauma even if they could or couldn't discuss the sexual assault. Post abuse distress symptoms the same for those with & without dementia. (4)
- The older the victim, the less likely the offender will be found guilty. (5)
- 55% of victims of sexual abuse in nursing homes died within a year of assault. (6)



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Citations

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Signs of Sexual Abuse

- Bruises in genital area and buttocks, breasts, and inner thighs
- Genital or anal bleeding
- Torn / Bloody underclothes
- Bite marks & hickeys
- Pelvic fracture
- Frequent UTI's
- Fear of caregivers or others in vicinity
- STD diagnosis
- Difficulty sitting, walking, urinating or defecating
- Changes in mood, increased agitation

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Victims with Intellectual Disabilities

- Research suggests people with ID have less knowledge about sexuality, less experience with dating/intimacy, and fewer opportunities to learn about these things
- This lack of knowledge may increase the risk of abuse and impair ones ability to recognize an experience as abuse
- Victimization for sexual assault is 10x as high as it is for those without ID
  - (USDOJ, 2021; Petersilia et al, 2001)
- 49% of people with developmental disabilities who are victims of sexual abuse will experience 10 or more abusive incidents
  - (Valenti-Hein & Schwartz, 1995)
- 88 to 98% of sexual abusers are known by the victims with ID
  - (Sobsey & Mansell, 1994)

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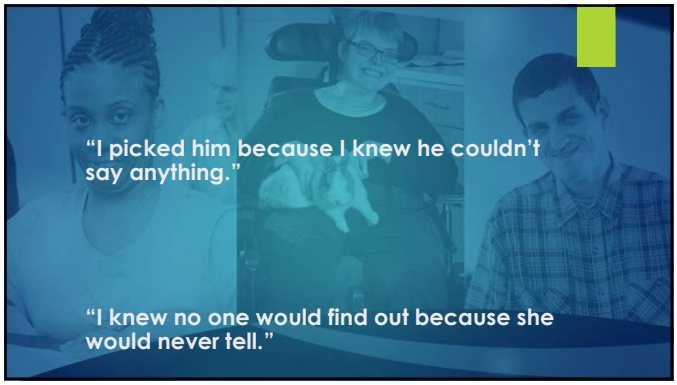

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Criteria for Consent

Knowledge

- Basic knowledge of sexual activities / behavior
- Private vs. public
- Birth control
- SDT / pregnancy risks

Rationality

- Ability to express a choice
- Verbal comprehension of information presented by partner
- Information to risks & benefits of sexual activity

Voluntariness

- Understands they have the right to say no
- Has ability to take self-protective measures against unwanted sexual abuse
- Understands they can refuse sex
- Understands power imbalance
- Understands consent
- Do they make repeated attempts to engage in activity on their own?

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Unique Problems in Elder / Dependent Adult Cases

- Lack of victim support within the family / facility
- Generational beliefs or educational differences
- Capacity Issues:
  - Can the elder / dependent adult even consent to sexual activity?
  - How do I show suspect knew victim not capable of giving consent?
  - Does suspect have capacity issues?
- Communication difficulties
- Lack of proper reporting
- Lack of Full Investigations
- Facility Liability

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Types of Evidence

- SART Exam for Victim
- SART Exam for Suspect
- Evidence collection
  - Clothing victim & suspect wore
  - Bedsheets, blankets, towels
- Pre-text phone call with Suspect
- Victim Capacity Assessment
- Security Cameras / "Nanny cam"
- Body Worn Cameras
- Photographs
- Interviews
- Victim & suspect medical records

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What is a SART Exam?

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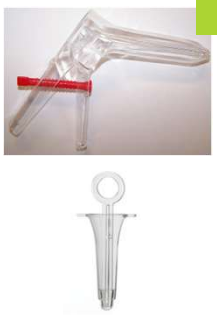
SART Exams

- Forensic medical exam intended to collect evidence for use in criminal prosecution
- Performed by healthcare professionals with specialized training in working with survivors & collecting samples
- Invasive and can be painful
- Often last 1-2 hours; may be longer for Elders
- Insertions of Speculum or Anoscope
- Insertion & collection of swabs to collect potential DNA
- Photos of Genitalia



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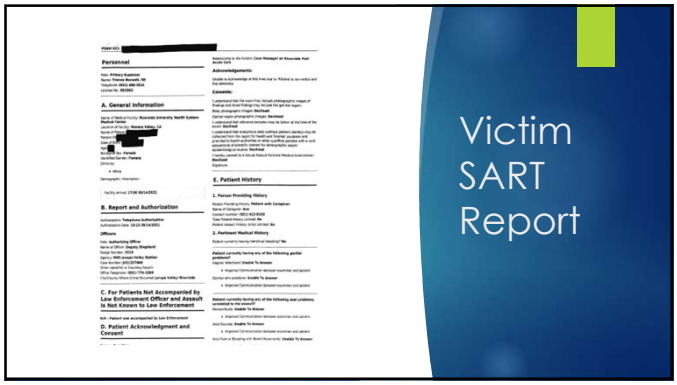

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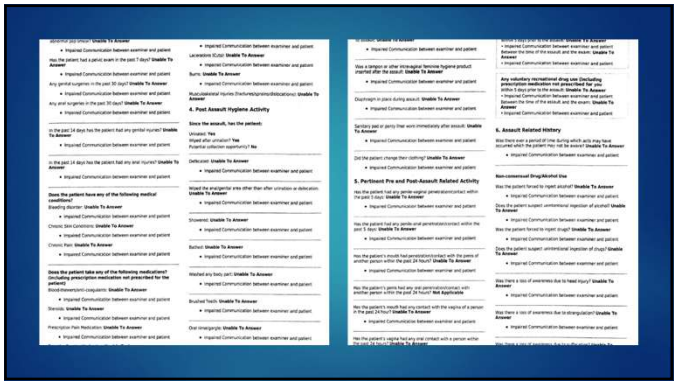

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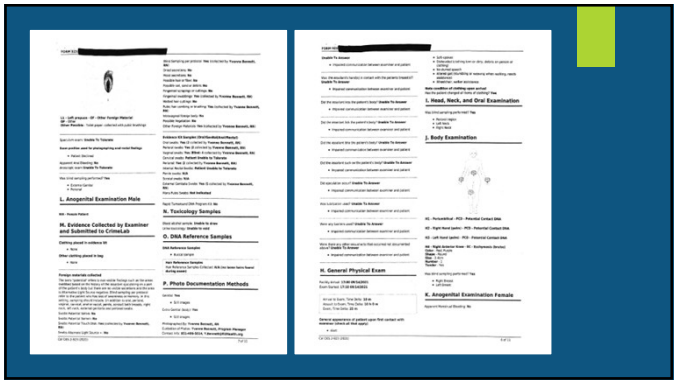

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SUSPECT'S NAME: [redacted]

THE COLLECTOR MUST ALWAYS COLLECT THE EVIDENCE IN THE PRESENCE O[...]ICER.

ALWAYS WEAR CLEAN GLOVES * FOLLOW AFN'S UNIVERSAL PRECAUTIONS

AVOID CONTAMINATION OF EVIDENCE... do not allow one biological sample to come into contact with another biological sample. Treat **all** biological samples as **infective material**. While handling biological samples implement AFN's safeguards. Keep any contaminated surface, [e.g., gloved hand,] away from your face to prevent contact with mucosal membranes, [e.g., eyes, nose].

Prior to the physical evidence collection, obtain a history from the law enforcement officer (not within hearing distance of the subject). (*Complete all blanks, if not applicable, write N/A.*) When the specific evidence is not required by the officer write "deferred per officer" and have officer initial. The collector *MUST INITIAL EACH STEP* of the physical evidence collection procedure. Document accurately. Write clearly, legibly and neatly.

Physical evidence collection began: Date: 9/14/21 Time: [redacted]

Incident Date: 9/14/21 Incident Time: [redacted] Condom used during incident: Yes __ No X

Location of incident: Riverside Post Acute Approx [redacted] Jurupa Valley 925

Surroundings: 3pt room @ Convalescent Home

Description of clothing worn during incident as described by suspect (describe clothing and color of garments):

Navy Drifit Shirt, Short Sleeved 3x Tech Gear

Black faded scrub pants (landau 3x) Black Boxer Briefs

Black Tennis Shoes sz. 11 Black Grey ankle socks

Date and time of most recent consensual intercourse, with whom, relationship: "Nobody"

Location of most recent consensual intercourse:

Surroundings:

Has subject bathed within the last 24 hours? Yes

INITIAL EACH BLANK

Clothing collection completed: CML N/A: ____ Deferred per officer request: ____

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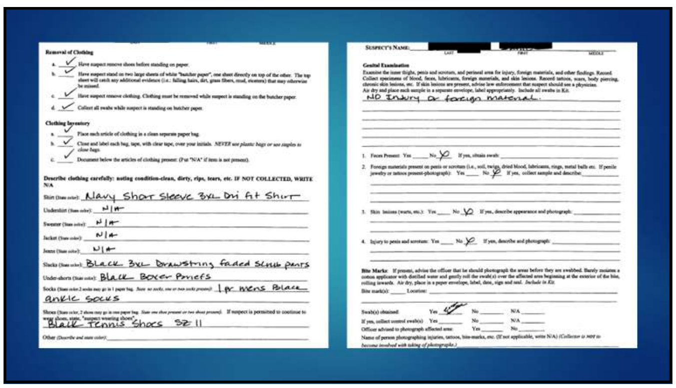

Removal of Clothing

a. ✓ Have suspect remove shoes before standing on paper.
b. ✓ Have suspect stand on two large sheets of white "butcher paper", one sheet directly on top of the other. The top sheet will catch any additional evidence (i.e.: falling hairs, dirt, grass fibers, mud, etc.) that may otherwise be missed.
c. ✓ Have suspect remove clothing. Clothing must be removed while suspect is standing on the butcher paper.
d. ✓ Collect all swabs while suspect is standing on butcher paper.

Clothing Inventory

a. ✓ Place each article of clothing in a clean separate paper bag.
b. ✓ Close and label each bag, tape, with clear tape, over your initials. *NEVER use plastic bags or use staples to close bags.*
c. ✓ Document below the articles of clothing present: (Put "N/A" if item is not present).

Describe clothing carefully: noting condition-clean, dirty, rips, tears, etc. IF NOT COLLECTED, WRITE N/A

Shirt (State color): Navy Short Sleeve 3XL Dri fit Shirt
Undershirt (State color): N/A
Sweater (State color): N/A
Jacket (State color): N/A
Jeans (State color): N/A
Slacks (State color): Black 3XL Drawstring faded Scrub pants
Under-shorts (State color): Black Boxer Briefs
Socks (State color 2 socks may go in 1 paper bag. *State no socks, one or two socks present*): 1 pr mens Black ankle socks
Shoes (State color, 2 shoes may go in one paper bag. *State one shoe present or two shoes present*). If suspect is permitted to continue to wear shoes, state, "suspect wearing shoes": Black Tennis Shoes SZ 11
Other (*Describe and state color*):

SUSPECT'S NAME: [redacted]

Genital Examination

Examine the inner thighs, penis and scrotum, and perineal area for injury, foreign materials, and other findings. Record. Collect specimens of blood, feces, lubricants, foreign materials, and skin lesions. Record tattoos, scars, body piercing, chronic skin lesions, etc. If skin lesions are present, advise law enforcement that suspect should see a physician. Air dry and place each sample in a separate envelope, label appropriately. Include all swabs in Kit.

NO Injury or foreign material.

1. Feces Present: Yes ___ No X If yes, obtain swab:
2. Foreign materials present on penis or scrotum (i.e., soil, twigs, dried blood, lubricants, rings, metal balls etc. If penile jewelry or tattoos present-photograph): Yes ___ No X If yes, collect sample and describe:
3. Skin lesions (warts, etc.): Yes ___ No X If yes, describe appearance and photograph:
4. Injury to penis and scrotum: Yes ___ No X If yes, describe and photograph:

Bite Marks: If present, advise the officer that he should photograph the areas before they are swabbed. Barely moisten a cotton applicator with distilled water and gently roll the swab(s) over the affected area beginning at the exterior of the bite, rolling inwards. Air dry, place in a paper envelope, label, date, sign and seal. *Include in Kit.*

Bite mark(s): ___ Location:

Swab(s) obtained: Yes ✓ No ___ N/A ___
If yes, collect control swab(s): Yes ___ No ___ N/A ___
Officer advised to photograph affected area: Yes ___ No ___
Name of person photographing injuries, tattoos, bite-marks, etc. (If not applicable, write N/A) *(Collector is not to become involved with taking of photographs.)*

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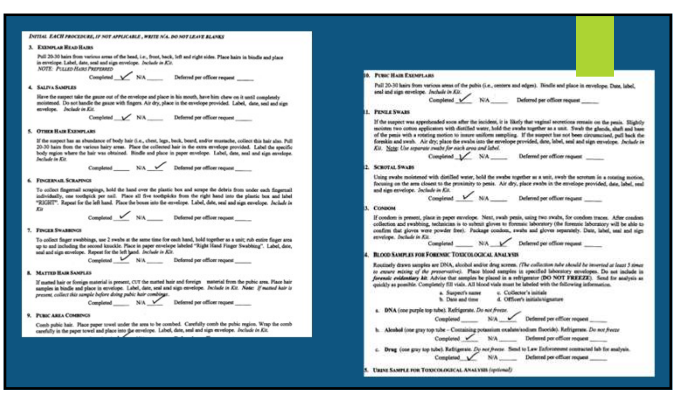

INITIAL EACH PROCEDURE, IF NOT APPLICABLE, WRITE N/A. DO NOT LEAVE BLANKS

3. **EXEMPLAR HEAD HAIRS**
Pull 20-30 hairs from various areas of the head, i.e., front, back, left and right sides. Place hairs in bindle and place in envelope. Label, date, seal and sign envelope. *Include in Kit.*
NOTE: PULLED HAIRS PREFERRED
Completed ✓ N/A ___ Deferred per officer request ___

4. **SALIVA SAMPLES**
Have the suspect take the gauze out of the envelope and place in his mouth, have him chew on it until completely moistened. Do not handle the gauze with fingers. Air dry, place in the envelope provided. Label, date, seal and sign envelope. *Include in Kit.*
Completed ✓ N/A ___ Deferred per officer request ___

5. **OTHER HAIR EXEMPLARS**
If the suspect has an abundance of body hair (i.e., chest, legs, back, beard, and/or mustache, collect this hair also. Pull 20-30 hairs from the various hairy areas. Place the collected hair in the extra envelope provided. Label the specific body region where the hair was obtained. Bindle and place in paper envelope. Label, date, seal and sign envelope. *Include in Kit.*
Completed ___ N/A ✓ Deferred per officer request ___

6. **FINGERNAIL SCRAPINGS**
To collect fingernail scrapings, hold the hand over the plastic box and scrape the debris from under each fingernail individually, one toothpick per nail. Place all five toothpicks from the right hand into the plastic box and label "RIGHT". Repeat for the left hand. Place the boxes into the envelope. Label, date, seal and sign envelope. *Include in Kit*
Completed ✓ N/A ___ Deferred per officer request ___

7. **FINGER SWABBINGS**
To collect finger swabbings, use 2 swabs at the same time for each hand, hold together as a unit; rub entire finger area up to and including the second knuckle. Place in paper envelope labeled "Right Hand Finger Swabbing". Label, date, seal and sign envelope. Repeat for the left hand. *Include in Kit.*
Completed ✓ N/A ___ Deferred per officer request ___

8. **MATTED HAIR SAMPLES**
If matted hair or foreign material is present, CUT the matted hair and foreign material from the pubic area. Place hair samples in bindle and place in envelope. Label, date, seal and sign envelope. *Include in Kit. Note: If matted hair is present, collect this sample before doing pubic hair combings.*
Completed ___ N/A ✓ Deferred per officer request ___

9. **PUBIC AREA COMBINGS**
Comb pubic hair. Place paper towel under the area to be combed. Carefully comb the pubic region. Wrap the comb carefully in the paper towel and place into the envelope. Label, date, seal and sign envelope. *Include in Kit.*

10. **PUBIC HAIR EXEMPLARS**
Pull 20-30 hairs from various areas of the pubis (i.e., centers and edges). Bindle and place in envelope. Date, label, seal and sign envelope. *Include in Kit.*
Completed ✓ N/A ___ Deferred per officer request ___

11. **PENILE SWABS**
If the suspect was apprehended soon after the incident, it is likely that vaginal secretions remain on the penis. Slightly moisten two cotton applicators with distilled water, hold the swabs together as a unit. Swab the glands, shaft and base of the penis with a rotating motion to insure uniform sampling. If the suspect has not been circumcised, pull back the foreskin and swab. Air dry; place the swabs into the envelope provided, date, label, seal and sign envelope. *Include in Kit. Note: Use separate swabs for each area and label.*
Completed ✓ N/A ___ Deferred per officer request ___

12. **SCROTAL SWABS**
Using swabs moistened with distilled water, hold the swabs together as a unit, swab the scrotum in a rotating motion, focusing on the area closest to the proximity to penis. Air dry, place swabs in the envelope provided, date, label, seal and sign envelope. *Include in Kit.*
Completed ✓ N/A ___ Deferred per officer request ___

13. **CONDOM**
If condom is present, place in paper envelope. Next, swab penis, using two swabs, for condom traces. After condom collection and swabbing, technician is to submit gloves to forensic laboratory (the forensic laboratory will be able to confirm that gloves were powder free). Package condom, swabs and gloves separately. Date, label, seal and sign envelope. *Include in Kit.*
Completed ___ N/A ✓ Deferred per officer request ___

14. **BLOOD SAMPLES FOR FORENSIC TOXICOLOGICAL ANALYSIS**
Routinely drawn samples are DNA, alcohol and/or drug screens. *(The collection tube should be inverted at least 5 times to ensure mixing of the preservative).* Place blood samples in specified laboratory envelopes. Do not include in ***forensic evidentiary kit***. Advise that samples be placed in a refrigerator (**DO NOT FREEZE**). Send for analysis as quickly as possible. Completely fill vials. All blood vials must be labeled with the following information.
a. Suspect's name c. Collector's initials
b. Date and time d. Officer's initials/signature

a. **DNA** (one purple top tube). Refrigerate. *Do not freeze.*
Completed ___ N/A ✓ Deferred per officer request ___
b. **Alcohol** (one gray top tube – Containing potassium oxalate/sodium fluoride). Refrigerate. *Do not freeze*
Completed ✓ N/A ___ Deferred per officer request ___
c. **Drug** (one gray top tube). Refrigerate. *Do not freeze.* Send to Law Enforcement contracted lab for analysis.
Completed ✓ N/A ___ Deferred per officer request ___

15. **URINE SAMPLE FOR TOXICOLOGICAL ANALYSIS** *(optional)*

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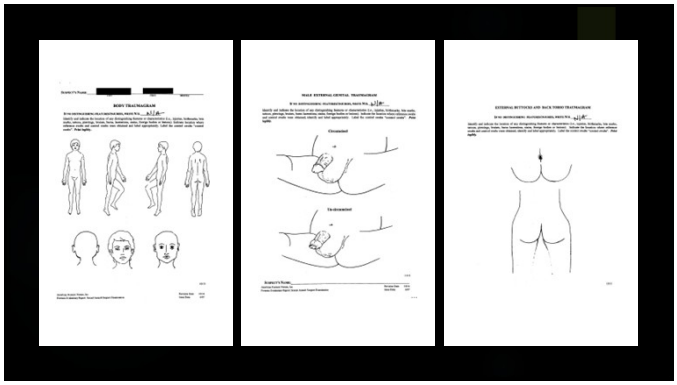

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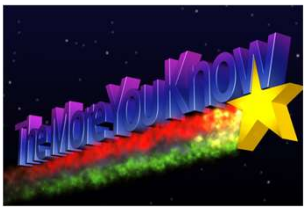
The More You Know…

- Consent can't be determined based on injury or lack thereof
- Elder Sexual Assault research is severely lacking
- DNA can still be collected after bathing/washing
- DNA can be collected for up to 5 days post assault
- Don't forget to document bruising or abrasions as time goes on



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Lack of Proper Reporting… W&I Code 15610.63

Physical Abuse in Long Term Care Facility:

- If serious bodily injury, telephone to 911 immediately, but no longer than 2 hours after abuse
- If no serious bodily injury, telephone to 911 call within 24 hours
- If SA is a resident w/ physician's diagnosis of dementia AND no SBI, then report to local ombudsman or law enforcement within 24 hours

Must also send report to ombudsman, corresponding licensing agency, & local law enforcement

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Why immediate reporting is critical

- Immediate resources provided to victim
  - Medical Treatment
  - Therapy
  - Cutting off Suspect access to victim
- Preservation of evidence!
  - Physical findings can be destroyed by urinating, showering, removing clothing, washing hands
  - Security cameras / video surveillance
- Accountability for suspect

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Why are facility victims at risk?

- Cognitive & Physical Deficits
- Vulnerable
  - Diaper changes
  - Sponge baths
  - Showering
- Power Dynamics
  - Reliant on caregiver for food, mobility assistance, safety
- Not enough staff for oversight

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Case Study #1

- Officers called out to facility because patient (suspect) hit caregiver
- Facility staff mention that suspect previously seen having sex with another resident who had severe dementia
- Facility staff told officer that suspect had dementia
- Officer clears call, no report taken & no interview done
- Case not reported to Ombudsman

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Case Study #1 continued:

- Suspect, while elderly, was a sex registrant who liked prostitutes and was previously kicked out of another facility for inappropriate behavior
- Suspect likely did not have dementia at such a stage where he didn't know what he was doing

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Lessons Learned

- We must do better with immediate reporting!
  - Law enforcement must be contacted
  - "There needs to be a reporting system. ...The system doesn't keep track of cases that haven't been substantiated, [and] their rules for substantiating a complaint are just astronomical. It's virtually impossible to substantiate a complaint." -- Lt. Chris Chandler, Waynesville, North Carolina, Police Department
  - Police investigations can do more: search warrants, SART exams, pre-text calls, run rap sheets on suspect, find & interview other victims
- Do not assume a suspect's capacity, or lack thereof!
- We must hold facilities accountable for failures to report
- Facility staff & reporting bias

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Case Study #2

- Jane Doe, 87 years old, w dementia
- Defendant is 63-year-old son
- Home health nurse enters home at 11:30a.m. and sees Defendant laying naked on top of victim
- Defendant thrusting his hips up and down as if he was having sex
- Victim laying on her back
- Home health nurse leaves home and call's Defendant's sister
- Home health nurse leaves and returns to work, where she tells her supervisor
- Supervisor reported it to law enforcement around 4:52p.m.
- Sister uncooperative with law enforcement & denied any abuse
- Victim denied

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Lessons Learned

- Family members can be abusers!
- Nurse should have called 911 first
- Family members may not always believe / protect victim
- Delays in reporting can ensure cases can't be substantiated or prosecuted
- What can happen during that time?
  - Bathing?
  - Laundry?
  - Suspect told what happened?

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Case Study #3

- Care worker walked in on SA with his pants down, standing behind naked (from the waist down) victim with dementia
- Care worker confronted SA
- SA said
- SA told to write letter of what happened by facility and was sent home
- Police later called
- Victim #1: Severe dementia, complained of severe hip pain
- SART exam: No findings
- Victim #2: Said SA grabbed her boobs multiple times and went "boom, boom" on her vagina
- Victim #3: Said SA grabbed her boobs multiple times and said "I never get caught"
- Victim #4: Previous molest victim, admitted sex with Defendant numerous times & oral copulation.

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Lessons Learned

- Sexual Assaults Occur in Facilities!
- Victims reluctant to report to staff / police
- Generational differences re: sex and discussions
- Previous trauma can create implied duress
- Power dynamics between caregiver & patient
- Facilities aren't focused on prosecution
- Unknown how many other victims there were

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"There's so many of them. How do I choose which one?"

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Final Thoughts?

- Always report suspected sexual abuse
- Believe the victim and do your investigation!
- Never assume a suspect does not have capacity based on facility representations alone
- We need to really analyze if individuals with ID have the capacity to consent in sexual activity to ensure they aren't being sexually assaulted
- What are the guidelines / notice requirements for facilities accepting patients who are sex offenders?
- Greater oversight over facility personnel

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Questions?

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