



Position Statement

915 Lee Street, Des Plaines, IL 60016-6569 ▪ 800.900.9659 ▪ www.ena.org

Forensic Evidence Collection in the Emergency Care Setting

Description

Violence is a public health problem that affects people of all ages worldwide.¹ Annually, across the globe more than 1 million lives are lost as a result of self-inflicted, interpersonal or collective violence.² In the United States specifically, non-fatal assault and self-harm injuries account for approximately \$37.7 billion in lifetime costs.³ The trauma associated with this violence continues to plague our society, compelling victims of injury who have forensic evidentiary needs into the emergency setting.^{4,5} The emergency nurse has an opportunity to provide trauma-informed care while identifying the need for forensic evidence collection and preservation.^{4,6} Forensic education and institutional guidelines can aid the emergency nurse in recognizing, collecting, and preserving this evidence while continuing to provide appropriate treatment and patient care.^{4,7,8} Some nurses receive specialty training in forensics and serve as an excellent resource for this patient population. The emergency nurse caring for a patient having suffered an act of violence or trauma is responsible for accurate documentation, evidence recognition, and collection, as well as preparation for testimony in a potential court proceeding.^{4,7} The emergency nurse may also be requested to function as an expert witness in medico-legal investigations, including depositions and courtroom testimony.⁶

ENA Position

It is the position of the Emergency Nurses Association that:

1. The emergency nurse is responsible for recognizing the potential impact of violence and trauma on the patient's physical and psychological responses.
2. A component of emergency nursing practice includes safeguarding evidentiary material through proper identification, collection, and preservation of forensic evidence.
3. The emergency nurse collaborates with emergency physicians, forensic nurses, sexual assault nurse examiners, social services, law enforcement, forensic laboratory personnel, and victim advocates to develop guidelines and/or policies that ensure the integration of forensic evidence identification, collection, preservation and transfer as well as accurate injury identification and documentation, in the emergency care setting.
4. Evidence collection procedures and/or policies include clear guidance and protection for patient privacy and rights, specifically addressing differences between mandatory and anonymous reporting requirements.
5. Emergency nurses receive education on proper evidence collection techniques, written and photographic documentation, the chain of custody process, and testifying in legal proceedings.
6. Whenever possible, a forensically trained nurse should be among the team caring for a patient care requiring forensic evidence collection in the emergency setting.
7. Early recognition of evidence along with methods for collection and preservation be incorporated into the patient plan of care, allowing for the emergency nurse's medical assessment, planning, intervention, and evaluation to be the priority.



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Background

The National Center for Health Statistics estimates that approximately 37.2 million people visit an emergency care setting for injury-related complaints.⁹ A number of these complaints could require evidence collection; for example, injuries sustained in motor vehicle crashes or a workplace setting, from burns, falls, or electrocution, from penetrating injuries, from exposure to hazardous materials or bioterrorism, or those injured as a result of a known assault or crime.^{5,7} In all circumstances, the well-being of the patient takes precedence over evidence collection.⁵ It is imperative that emergency nurses understand that proper methods of evidence collection and documentation in medico-legal cases is crucial, and may be the only source of information for the criminal justice system to work with.⁷

Emergency nurses are part of the multidisciplinary team that cares for victims and perpetrators of injury, violence and crime alike.⁵ Collaborating with community partners such as criminal justice system providers, law enforcement and advocacy agencies will help to create evidence collection and preservation guidelines consistent with jurisdictional needs and patient rights. Physical evidence, including but not limited to, clothing, bullets, physical injuries, etc., should be handled and documented with details to prevent disruption of the chain of custody or contamination of evidence.^{4,7} Subjective evidence – i.e., anything the patient or witness discloses about the injury – requires documentation in fine detail using verbatim words as often as possible.^{4,5,7} Education and protocols that detail evidence collection procedures, patient rights, healthcare responsibilities, and the legal process are critical for emergency nurses to feel comfortable caring for this patient population.⁴ ⁸ Annual refreshers can aid in increasing skills and comfort levels in facilities where staff do not often use these skills.⁷ In cases where forensic evidence collection is warranted, both the legal system and the patient rely upon emergency nursing documentation and evidence preservation in the external court proceedings.^{4,5,7}

Resources

Ballou, S., Bamberger, P. S., Brown, L., Brown, R., Burney, Y., Davenport, D., . . . Williams, S. (2013). *The biological evidence preservation handbook: Best practices for evidence handlers*. NISTIR 7928. Washington, D.C.: U.S. Department of Commerce, National Institute for Standards and Technology. Retrieved from <http://www.crime-scene-investigator.net/BiologicalEvidencePreservationHandbook.pdf>

Bush, K. (2016). *Adult and Adolescent Sexual Assault Patients in the Emergency Care Setting*. [Position Statement]. Des Plaines, Illinois: Emergency Nurses Association. Retrieved from <http://www.ena.org/practice-resources/resource-library/position-statements>

Bush, K. (2017). *Care of Prepubescent Pediatric Sexual Abuse Patients in the Emergency Care Setting*. [Position Statement]. Des Plaines, Illinois: Emergency Nurses Association. Retrieved from <http://www.ena.org/practice-resources/resource-library/position-statements>

National Institute of Justice. (2017). *National best practices for sexual assault kits: A multidisciplinary approach*. Retrieved from <https://www.nij.gov/topics/law-enforcement/investigations/sexual-assault/Pages/national-best-practices-for-sexual-assault-kits.aspx>

U. S. Department of Justice. (2013). *National protocol for sexual assault medical forensic examinations for adults/adolescents* (2nd ed.). Retrieved from <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>

U. S. Department of Justice. (2016). *National protocol for sexual assault medical forensic examinations for pediatrics*. Retrieved from <https://www.justice.gov/ovw/file/846856/download>

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