Expanding Your Program Beyond the Traditional SANE Program

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# The FACT Numbers

<table>
<thead>
<tr>
<th>Categories</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>Current 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual Assault Pediatrics (0-12)</td>
<td>2</td>
<td>10</td>
<td>15</td>
<td>20</td>
<td>11</td>
</tr>
<tr>
<td>Sexual Assault (&gt;18)</td>
<td>31</td>
<td>45</td>
<td>115</td>
<td>122</td>
<td>66</td>
</tr>
<tr>
<td>Sexual Assault Adolescent (12-17)</td>
<td>8</td>
<td>27</td>
<td>45</td>
<td>41</td>
<td>21</td>
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<tr>
<td>Physical Assault Pediatrics (0-17)</td>
<td>No service line</td>
<td>10</td>
<td>46</td>
<td>20</td>
<td>33</td>
</tr>
<tr>
<td>Physical Assault Adult (&gt;18)</td>
<td>No service line</td>
<td>63</td>
<td>238</td>
<td>273</td>
<td>126</td>
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<tr>
<td>Domestic Violence</td>
<td>No service line</td>
<td>1</td>
<td>127</td>
<td>122</td>
<td>96</td>
</tr>
<tr>
<td>Elder Abuse/Neglect</td>
<td>No service line</td>
<td>3</td>
<td>20</td>
<td>27</td>
<td>14</td>
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</table>
## Drugs and Increasing Lethality

<table>
<thead>
<tr>
<th>Category</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>DFSA</td>
<td>7</td>
<td>26</td>
<td>59</td>
<td>70</td>
<td>36</td>
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<tr>
<td>Toxicology</td>
<td>8</td>
<td>24</td>
<td>62</td>
<td>46</td>
<td>21</td>
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<tr>
<td>Strangulation</td>
<td>No service line</td>
<td>18</td>
<td>51</td>
<td>59</td>
<td>34</td>
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<tr>
<td>Human Bites</td>
<td>No service line</td>
<td>5</td>
<td>23</td>
<td>26</td>
<td>10</td>
</tr>
<tr>
<td>Weapons Used</td>
<td>No service line</td>
<td>24</td>
<td>58</td>
<td>66</td>
<td>33</td>
</tr>
<tr>
<td>+ Genital Injury</td>
<td>3</td>
<td>17</td>
<td>35</td>
<td>25</td>
<td>13</td>
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</table>
## Law Enforcement Involvement

<table>
<thead>
<tr>
<th>Category</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law Enforcement</td>
<td>34 (79.0%)</td>
<td>115 (72.7%)</td>
<td>393 (64.9%)</td>
<td>262 (38%)</td>
<td>150 (0.4%)</td>
</tr>
<tr>
<td>KBI Anonymous Sexual Assault</td>
<td>Unknown, no service line</td>
<td>14 (11.3%)</td>
<td>9 (0.5%)</td>
<td>6 (0.4%)</td>
<td>2 (0.02%)</td>
</tr>
<tr>
<td>Declined FACT services</td>
<td>4 (0.9%)</td>
<td>8 (0.5%)</td>
<td>125 (20.6%)</td>
<td>235 (34%)</td>
<td>139 (37%)</td>
</tr>
<tr>
<td>TOTAL CASES</td>
<td>43</td>
<td>158</td>
<td>605</td>
<td>685</td>
<td>375</td>
</tr>
</tbody>
</table>
# Jurisdictions Served

<table>
<thead>
<tr>
<th>Counties</th>
<th>Law Enforcement Agencies-Victims</th>
<th>Law Enforcement Agencies-Suspects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Johnson</td>
<td>20</td>
<td>None-Crime Lab</td>
</tr>
<tr>
<td>Miami</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Wyandotte</td>
<td>4</td>
<td>4 juveniles only</td>
</tr>
<tr>
<td>Leavenworth</td>
<td>5, + military and prisons</td>
<td>5 + military and prisons</td>
</tr>
</tbody>
</table>
Where we started and our progression

- Pediatric Program sexual assault program began in December 2009
- Physical Assault program in May 2010-house wide
- Domestic Violence/Intimate Partner Tracking 2011
- Strangulation methods and signs & symptoms 2011
- Expansion of time frame for evidence collection from 72 hours to case determined with no set time frame 2011
- Expanded to provide care to Prairie Star Campus, 2011.
Would it be beneficial to add service: IPV, Elder Abuse & Assault with Injuries, what about suspects?

- Law Enforcement
- County & District Attorney
- Victims/Patients
What would be the hurdles, if any?

Staff
Hospital Response
Medical Records
Cost vs. Revenue
Suspect Examinations?

• Critical, but often overlooked
• Most agencies lack policies / protocols
• Suspect’s body may be a better source of probative evidence than the victim’s
• Victim’s DNA found in 30% (with adult victims) and 44% (with adolescent victim) of evidence from suspect exam when analyzed by a criminalist (Caain, 2002)
Suspect exams, OVERLOOKED

• Suspect’s clothing even better source of evidence in many SA cases
• Again, critical but often overlooked
• When suspect’s clothing and other crime scene evidence such as condoms, bottles and tissues were examined by a criminalist, 80% included the victim’s DNA profile and 20% included the suspect’s DNA profile (Caain, 2002).
Importance of Suspect Exams

• Not just about suspect ID
• Evidence can corroborate specific acts, determine if penetration occurred, and document multiple suspects
• Also detailed description of suspect
• “Fill in pieces of the story” for victims
• Document force, resistance, injuries
Legal Requirements

Three ways to obtain suspect exam:

1. Suspect may consent to exam
2. Exam conducted incident to arrest depending on state laws
3. Warrant or court order obtained
#1 Suspect consent

- Surprisingly, they often do consent
- Yet some agencies prohibit practice
- Check with PD, County Attorney’s office
  – Your thoughts?
- Take precautions to avoid perception of coercion
#2 Incident to arrest

- Allowed in some jurisdictions, based on exigent circumstances / loss of evidence
- Can sometimes even use force to obtain, although rarely needed
#3 Warrant or Court Order

- Adds step to investigative process
- But should not stand in the way, given the critical importance of suspect exam
- Sample template provided in handouts
The Medical Forensic Exam of Suspects

LE officer must be present at all times
LE provides examiner with info about SA

- Acts reported
- Location
- Physical identifying info for suspect, as given by victim / witness
- Injuries victim described inflicting on suspect
The Medical Forensic Exam of the Suspect

Miranda warning given to suspect

• Examiner then takes medical history, records vital signs, collects evidence, and documents any injury or pain
• May need toxicology sample
• DNA reference samples taken
• All evidence / statements documented
• No conclusions drawn by examiner
Nuts and Bolts of documentation

Stress Reduction Kit

Bang Head Here

Directions:
1. Place kit on FIRM surface.
2. Follow directions in circle of kit.
3. Repeat step 2 as necessary, or until unconscious.
4. If unconscious, cease stress reduction activity.
Documentation

- **Consents**
  - Physical Assault
  - Sexual Assault

- **Emergency Contraception**
  - Consent/Decline

- **Standing Orders**
  - Paper
  - Electronic

- **Medical Forensic Examination**
  - Paper
  - Electronic
  - Kansas Bureau of Investigations (Crime Lab)

- **Discharge Instructions**
  - Physical Assault
  - Pediatric Sexual Assault
  - Adult/Adolescent Sexual Assault

- **Chain of Custody**
  - Paper
  - Electronic
Notifications

Law Enforcement:
Pictures-secure
email vs. disk
Reports- secure
email vs. disk

County Attorney:
Case
Billing

CONFIDENTIAL

FAXED
Medical Records

• What is HIM the custodian of in your facility in regards to medical forensic examinations?

• Medical Records Release-who is responsible and how?
  ◦ Forensic Program
  ◦ HIM
  ◦ Forms
  ◦ Subpoenas
HIPPA and the Forensic Program
it affects everyone
How HIPAA Affects SARTs continued

- Detectives occasionally have difficulty obtaining information from hospitals and other health care providers during their investigations.
- Forensic examiners occasionally have problems trying to access victims' medical reports from emergency departments.
- Prosecutors have had problems getting medical information to aid in the prosecution of cases.
- There are varying misinterpretations of HIPAA stipulations. This is particularly the case among tribal communities, in which health care and mental health facilities refuse to share information with tribal advocates but openly discuss cases in team meetings with individuals who do not have any link to the case in question.
The HIPPA Conundrum

• Specifically ALLOWED
• Health oversight exception
• 45 C.F.R. 164-512(d)
• It’s ok to give them the information and the documents
HIPPA and Law Enforcement

Child abuse or neglect. Covered entities may disclose protected health information to report known or suspected child abuse or neglect, if the report is made to a public health authority or other appropriate government authority that is authorized by law to receive such reports. For instance, the social services department of a local government might have legal authority to receive reports of child abuse or neglect, in which case, the Privacy Rule would permit a covered entity to report such cases to that authority without obtaining individual authorization.

Likewise, a covered entity could report such cases to the police department when the police department is authorized by law to receive such reports. See 45 CFR 164.512(b)(1)(ii). See also 45 CFR 512(c) for information regarding disclosures about adult victims of abuse, neglect, or domestic violence.

www.hhs.gov/ocr/privacy/hipaa/understanding/special/publichealth/publichealth.pdf
Requests from Law Enforcement

Is the request from a law enforcement individual? 45 CFR 164.512(f) Law enforcement official is defined as “officer or employee of any agency or authority of the United States, a State, a territory, or an Indian tribe, who is empowered by law to: (1) Investigate or conduct an official inquiry into a potential violation of the law; or (2) to prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of the law” CFR 164.501

www.hhs.gov/ocr/privacy/hipaa/understanding/special/publichealth/publichealth.pdf
Required by law means a mandate contained in law that compels a covered entity to make a use or disclosure of protected health information and that is enforceable in a court of law.

Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand.

Verification

Requests for more information than directory information require both: (1) identification and verification of the requester as a law enforcement official and (2) the legal ground for the requested disclosure

Contact Information

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