



Featured in this issue: Sexual Assault

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From the Executive Director

Now that the winter weather seems to be behind us, I hope you are enjoying the warmer, brighter days of spring.

In recognition of April as Sexual Assault Awareness and Prevention Month, this issue features a variety of information about this important topic. Many thanks to Jason Weinstein from the New York Prosecutors Training Institute for writing the feature article on prosecuting sexual assault cases and the best ways to partner with Sexual Assault Nurse Examiners, and to Nancy Harris, for her insightful Q&A about the requirements and challenges of conducting and processing sexual assault exams for victims who are in crisis.

New York State also joined the nation to recognize April 2 through 8 as National Crime Victims' Rights Week. I encourage you to visit the New York State Office of Victim Services website to learn more about how the agency can assist victims and survivors of crime and their families.

I also encourage you to Save the Date for the annual New York State Crime Victims' Memorial Brick Dedication Ceremony, which is scheduled for 1 p.m. to 3 p.m. on Friday, June 9.

May is Mental Health Awareness Month. The mental health section of the OPDV website is a great source of information about the many intersections of mental health and domestic violence, as well as the resources and training opportunities the agency can provide.

Finally, this October will mark the 10th anniversary of New York State's Shine the Light campaign. You can learn more about last year's efforts across the state and begin to make plans to join the celebration this fall. Our goal is to make the 2017 campaign the biggest and brightest ever!

I wish you a wonderful spring.

Gwen Wright

Save the Date: Friday, June 9, 2017

New York State Crime Victims' Memorial Annual Brick Dedication Ceremony

The annual Brick Dedication Ceremony at the New York State Crime Victims' Memorial, located at the Empire State Plaza in Albany, is scheduled to take place from 1 p.m. to 3 p.m. on Friday, June 9.

Since 1996, the Brick Dedication Ceremony has provided a way to honor and remember victims of crime from communities across the state. The ceremony is organized by members of the New York Crime Victims' Assistance Task Force, a non-profit coalition with a wide membership, including private individuals and professionals from state and local government agencies and victim service organizations.

For information about purchasing a brick, or to determine financially-based scholarship eligibility, please email OPDV Resource Coordinator Sharon King, or call (518) 457-4100.

1-800-942-6906
NYS Domestic & Sexual Violence Hotline

Confidential • 24 HRS/7 DAYS
English & español, multi-language Accessibility
711: Deaf or Hard of Hearing
In NYC: 311 or 1-800-621-HOPE (4673)
TDD: 1-800-810-7444

April is Sexual Assault Awareness Month

May is Mental Health Awareness Month

Shine the Light: 10th Anniversary!

October 2017 marks the 10th anniversary of our annual, statewide Shine the Light on Domestic Violence campaign! If you have participated in the past, we hope that you will join us again this year. If you have never participated, we urge you to help make this our biggest, most spectacular campaign yet. Please watch our website for updates and information, coming soon!

Did You Know...

In 2015, New York State received 653 sexual assault claims resulting in total compensation of \$819,906.

Source: 2015 NYS Domestic Violence Dashboard.

# Sexual Assault: A Legal Perspective

Jason Weinstein, [New York Prosecutors Training Institute](#)

Before meeting with a Sexual Assault Nurse Examiner (SANE) who has examined the victim of a sexual assault, prosecutors should become familiar with the role of these professionals, what information they might be able to provide, and how such information might be handled at a potential trial. Understanding this will help set realistic expectations as prosecutors deal with a SANE, and when preparing a trial strategy.

## Meeting with the SANE

Early on in a case, it is crucial that a prosecutor meet with a SANE who has examined a sexual assault victim, and that the prosecutor schedule enough time for a substantial meeting. It is important to review the SANE's curriculum vitae (CV) or resume in order to draw on the full extent of the person's clinical background if the case goes to trial. A prosecutor must also take care to fully review all reports and documents prepared by the SANE, and share findings the SANE considers most significant or surprising, as well as identify what appears significant or surprising for the prosecutor, in order to be certain there are no misunderstandings or important details overlooked. What might seem relevant to one party might not to the other, and any such differences in perception should be discussed.

“What might seem relevant to one party might not to the other, and any such differences in perception should be discussed.”

During this meeting, if there is going to be a trial, it is important to review with the SANE what exhibits will be used. Any photographs or diagrams of the victim's genitalia or other parts of the victim's body should be reviewed together, and it is important to discuss any terminology beyond the comprehension of a layperson. If a prosecutor is unfamiliar with or doesn't understand something the SANE says, the jury will likely be in the same position, and explanations will be needed. Additionally, a SANE who is expected to testify at a trial should be prepared for cross examination. A defense attorney may attempt to minimize the impact of the SANE by claiming that nurses are less qualified than doctors, so the SANE should be prepared to fully discuss all relevant training regarding sexual assault examinations, which likely exceeds the sexual assault training generally received by most physicians. Further, SANEs should expect their objectivity to be questioned and criticized, so they should be prepared to explain their obligations as licensed professionals whose duty is to the health of the patient, not law enforcement.

## Understanding the SANE's Obligations and Limitations

A prosecutor also must understand exactly what information the SANE may – or may not – be able to provide. Setting proper expectations will allow for a more accurate assessment of the case and help focus a prosecutor when meeting with a SANE before trial, or when examining a SANE during the trial.

For example, prosecutors must realize that a sexual assault may not be accompanied by a physical injury. According to a 2006 study from the U.S. Department of Justice, among sexual violence victims who were 18 or older when raped, 32 percent of women and 16 percent of men reported a physical injury as a result of a rape.<sup>1</sup> Statistics regarding genital injury to female rape victims vary, but many studies show a rate of 50 percent or less. Therefore, prosecutors must not rely on the misconception that, if a SANE examined a rape victim, there will certainly be testimony regarding genital injury that will demonstrate that a rape occurred.

By being aware of such statistics, prosecutors may be able to have the SANE testify about this reality – or draw upon their own experience in examining rape victims in the past – to counter a potential defense claim that if the victim was not injured, they could not have been raped. Without such expert testimony, a jury might be convinced that no injury means there was no sexual assault.

Prosecutors must also realize that, even if the SANE discovered a genital injury, this alone does not prove a lack of consent. Such injuries could have occurred from consensual contact. For example, a SANE might be able to state that a particular genital injury is “consistent” with forced penetration, but cannot say that the only explanation is forced penetration. That said, prosecutors should discuss the overall clinical picture of the victim with the SANE, including external body injuries, patient statements, and the patient's appearance and demeanor during the examination. A SANE also can explain that a particular type of injury, a laceration of the posterior fourchette, is most common in forcible penetration cases.

In closing, prosecutors must be cognizant that SANEs are independent health care professionals, not law enforcement officers or victim advocates. Prosecutors stress this independence at a trial, by allowing SANEs to testify as to their independent role. This may help a jury see the SANE as a trusted and credible witness for the prosecution.

<sup>1</sup> U.S. Department of Justice, National Institute of Justice & the Centers for Disease Control and Prevention, Special Report, “Extent, Nature, and Consequences of Rape Victimization.”

## New York State Responds to Campus Sexual Assault

In response to the many recent high-profile sexual assault cases occurring on college and university campuses nationwide, New York State has taken the lead on addressing this issue by establishing one of the most comprehensive [policies to address campus sexual assault](#).

Governor Cuomo signed [“Enough is Enough”](#) into law on July 7, 2015. It requires all public and private colleges and universities in the state to adopt a uniform definition of affirmative consent, a statewide amnesty policy, and expanded access to law enforcement. The new law also includes \$4.5 million to cover the cost of support services and rape crisis programs providing prevention, education and victim services to campus populations.

The [New York State Department of](#)

[Health](#) (DOH) has distributed this funding to 56 rape crisis and sexual violence agencies and organizations, which must partner with local colleges and universities to deliver services and prevention education activities based on the needs of each campus.

A State Interagency Enough is Enough Coordination Working Group has been established to support the implementation of this program. Working Group stakeholders include: [NYS Police](#), [State Education Department \(SED\)](#), [Office of Victims Services \(OVS\)](#), [Office for the Prevention of Domestic Violence \(OPDV\)](#), [Division of Criminal Justice Services \(DCJS\)](#), [SUNY Office of Campus Safety](#), [Office of Alcoholism and Substance Abuse Services \(OASAS\)](#), [State University of New York \(SUNY\)](#), the [New York State Coalition Against](#)

[Sexual Assault \(NYSCASA\)](#), the [New York City Alliance Against Sexual Assault \(NYC Alliance\)](#), and the [New York State Coalition Against Domestic Violence \(NYSCADV\)](#).

New York State also has established a Training and Technical Assistance Center with funding from the NYSCASA and the NYC Alliance to assess training needs for direct services and prevention, and to provide training and technical assistance to rape crisis and sexual violence programs. The Center also assists campuses in meeting their Enough is Enough mandates.

For more information about the program, please [email](#) the State Department of Health.

## Shine the Light 2016: A Recap

October 2016 marked the ninth year of New York State’s [“Shine the Light on Domestic Violence”](#) campaign! We are thrilled that so many people are now “going purple” as part of their annual October tradition.

Governor Andrew M. Cuomo kicked off the month by announcing that, for the first time ever, [One World Trade Center](#) would be lit purple on Oct. 1 to mark the beginning of New York State’s awareness efforts.



**One World Trade Center**

In addition, the [Alfred E. Smith](#) and [SUNY Plaza](#) buildings in Albany, and the Mid-Hudson Bridge were illuminated in purple throughout the month.

We also saw some creative new ideas in local communities. [RESOLVE of Greater Rochester](#) placed six-foot tall purple [outhouses](#) in 25 local neighborhoods and on eight college campuses, the [Victim Assistance Center](#) in Watertown painted several [fire hydrants](#) purple, and the Rochester Regional Transit Service used their [Transit Center](#) to Shine the Light.



**NYS Division of Criminal Justice Services**

Check out our Facebook [album](#) for more photos.

This October marks the 10th anniversary of Shine the Light. We urge you to join us and help make this our biggest, most spectacular campaign yet.



**NYS Police and Bureau of Criminal Identification**

Visit the OPDV website for a variety of resources, including [downloadable brochures](#) and [posters](#). We also offer suggestions for [how to go purple](#) and provide customizable items such as a [sample press release](#) and helpful [talking points](#). As always, please let us know if there are additional resources that would assist with your efforts to go Purple in October.

# Teen Dating Violence Awareness and Prevention Month

Every February, OPDV marks Teen Dating Violence Awareness and Prevention Month by launching a campaign to educate and empower teens and their parents to recognize signs of dating abuse and learn about where to get help.

This year, the agency went viral with “Control Isn’t Love,” a social media advertising campaign targeting younger audiences and parents through Instagram and Facebook ads that appeared online throughout the month across the state (outside of New York City).



**CONTROL ISN'T LOVE**  
Abuse can take many forms. Controlling, possessive or extremely jealous behavior can be signs of abuse and not flags for future physical violence.

## NYS Teen Dating Violence homepage

In announcing the initiative, Governor Andrew M. Cuomo said, “With this campaign, we are taking an important step to reach teens and young adults in order to educate and crack down on dating abuse. By opening communication between parents and their children, we also want to foster serious discussions and smart decisions to assist others in need.”

The social media ads featured iconic candy conversation hearts but the messages were controlling and demeaning – Loser, Don’t Wear That, Answer Me and others – to illustrate a common form of teen



#controlisntlove Instagram digital ad

dating abuse. The advertisements were branded #controlisntlove and linked to a newly redesigned website detailing information and resources, including the state’s Domestic and Sexual Violence Hotline: 1-800-942-8906.



#controlisntlove Facebook digital ad

We unveiled the campaign at Troy High School in Rensselaer County, with help from some great students who are members of the Women As Voices and Educators (WAVE) Club.



Students from Troy High School’s WAVE Club being interviewed by WTEN

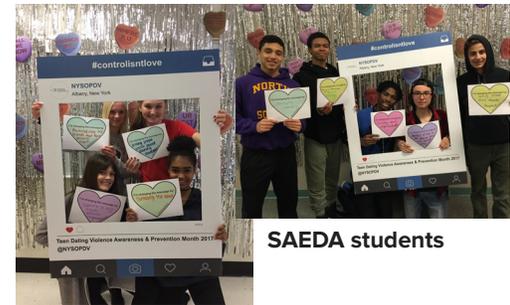
Club members and other students posed with a large #controlisntlove Instagram frame, holding paper conversation hearts on which they wrote supportive messages to counter negative ones featured in the campaign.

Teens posed with their virtual valentines and posted photos to social media using the #controlisntlove hash tag and @NYSOPDV handle. Many thanks to the club and its advisor, Student Assistance Counselor Bruce Margolis, for hosting us!



Troy High School

Given the success of the event at Troy High, we decided to bring our Instagram “photo booth” to teens in other parts of the state. We visited health classes at Clarence High School in Erie County and the Student Activists Ending Dating Abuse Training Institute in Rockland County. We thank those teens, educators and schools for helping us spread the word.



SAEDA students

Clarence High School

Many thanks to everyone who helped make this campaign a success: our Facebook and Instagram ads were seen more than three million times!

We’re thrilled that more people have access to information and resources to prevent teen dating abuse, learn about healthy relationships and where to get help.



SAEDA students tell us how they’re changing the message

# Q&A: Sexual Assault: A Medical Perspective



This Q&A was conducted with Nancy Harris of the Forensic Nurse Program at [St. Peters Health Partners](#) in Albany, with input from a primary care physician, an emergency physician, a sexual assault victims' advocate, a nursing supervisor, and a hospital administrator.

**Q How many cases of sexual assault do you see each year?**

**A** In 2016, among our four facilities, we cared for 161 sexual assault patients and performed 27 non-acute exams on pediatric patients at our local Child Advocacy Centers.

**Q How many cases go unreported?**

**A** According to statistics reported to the [State Division of Criminal Justice Services](#), there were 60 reports of sexual assault filed with the Albany Police Department and 25 cases of sexual assault filed with the Troy Police Department in 2016, revealing that about half of the sexual assaults we see are not reported to police.

**Q Are patients required to contact law enforcement?**

**A** No. We inform patients that the exam kit will not be processed unless law enforcement is involved, and that law enforcement will only be contacted at the request of the patient. We keep kits for 30 days, so patients need not make the decision about contacting law enforcement immediately.

**Q How soon after a sexual assault should someone be examined?**

**A** Many programs offer care up to 96 hours while some others are 120 hours. Medications such as HIV prophylaxis and emergency contraceptives should be taken within hours for greatest effectiveness.

**Q What happens when someone comes in for an exam?**

**A** Patients generally present to the registration personnel or triage nurse

of the Emergency Department (ED). The triage nurse determines when the assault occurred and whether the patient would like to see a Sexual Assault Nurse Examiner (SANE) or a Forensic Nurse Examiner (FNE); both are trained in caring for sexual assault patients. A sexual assault advocate is also called in to provide support.

Every sexual assault patient has a medical screening by an ED physician who works closely with the Forensic Nurse Examiner and Sexual Assault Nurse Examiner. Medical staff will first obtain patient consent to perform the medical and speculum exam, obtain laboratory specimens, treat with medications, collect evidence, take photographs, and release evidence and documentation to law enforcement (or hold for 30 days). A patient can choose to stop the exam at any time.

**Q If I do not file a police report, can my bill still be paid for?**

**A** All forensic rape exams are eligible to be paid for by the [NYS Office of Victim Services](#) (OVS), whether or not a victim reports to police. We do not ask sexual assault victims for insurance information. Instead, we provide the [OVS reimbursement form](#) and receive a flat fee directly from OVS. No bills are sent to the patient.

**Q What help is available for victims of domestic violence who cannot safely return home?**

**A** We work closely with [local domestic violence service providers](#) to ensure that all patients have a safe place to go upon discharge.

**Q How can someone help a friend who has been sexually assaulted?**

**A** They can contact a [local rape crisis center](#) or [Victim Assistance Program](#) and talk with a trained advocate. They can also accompany the person to the nearest hospital for emergency medical/evidential care.

**Q What are the benefits of post-assault counseling?**

**A** According to the [Rape, Abuse & Incest National Network](#) (RAINN):

- 94 percent of women who are raped experience post-traumatic stress disorder (PTSD) symptoms during the two weeks following the rape.
- 30 percent of women report PTSD symptoms nine months after the rape.
- 33 percent of women who are raped contemplate suicide.
- 13 percent of women who are raped attempt suicide.
- Approximately 70 percent of rape or sexual assault victims experience moderate to severe distress, a larger percentage than for any other violent crime.

We're seeing an increase in visits to hospitals and outpatient clinics by former sexual assault patients. They often present with vague complaints or illnesses such as back aches, headaches, irritability, digestive issues, eczema/psoriasis, asthma, and hypertension caused by emotional stress. Counseling/therapy provided soon after the assault can greatly reduce these symptoms.

**Q How did you get involved in this work?**

**A** I was working as a Registered Nurse at a local Emergency Department when a patient came in following a sexual assault. While treating her, I realized how wrong it felt to be collecting evidence and swabs without really understanding the proper collection or storage techniques. What's more, I didn't understand how important it was to talk with her about what she had just experienced. This wasn't how we would have treated any other patient coming into the Emergency Department for any other condition. After that night, I took my first training in caring for adult/adolescent sexual assault patients. I have since received ongoing pediatric and advanced adult training, and I now train other nurses on caring for patients of sexual assault.

# Legislative Update: Sexual Assault Evidence Kits

New York State enacted a new law at the end of 2016 to inventory sexual assault evidence kits in the custody of law enforcement and to establish procedures for timely processing of new kits. An amendment to the law in February 2017, changed the effective dates of some of the 2016 provisions and added new provisions. The final law includes the following requirements:

- Law enforcement agencies and prosecutors were required to inventory sexual offense evidence kits in their custody and report the total number to the State Division of Criminal Justice Services (DCJS) and an appropriate forensic laboratory so DCJS could report those statistics to the Legislature by March 1, 2017.
- Any untested sexual offense evidence kits in the possession or control of a police agency or prosecutor's office on or before February 26, 2016 must be submitted to an appropriate forensic laboratory by Dec. 28, 2017.
- Effective November 28, 2017, within

120 days of receiving a kit, a forensic laboratory must assess the kit and analyze and develop a CODIS eligible DNA profile when possible. Results must be reported to the submitting police agency and the appropriate prosecutor's office within 90 days of the assessment.

For kits collected after February 26, 2017, the following procedures apply:

- Any police agency or prosecutor's office must submit a sexual offense evidence kit [in its custody] to an appropriate forensic laboratory within 10 days of receipt.
- After receiving a kit, a forensic laboratory must assess the kit, and analyze and develop a CODIS eligible profile where it is possible. Results must be reported to the submitting law enforcement agency and the appropriate prosecuting agency within 90 days of receipt.

Beginning November 28, 2017, the following reports must be made quarterly to DCJS:

- Police agencies and prosecutor's offices:
  - ◊ number of sexual offense assault kits received;
  - ◊ number of kits submitted to a forensic lab;
  - ◊ number of kits in its custody that have not been processed for testing; and
  - ◊ length of time between receipt of a kit and submission to a forensic lab.
- Forensic labs:
  - ◊ number of sexual offense assault kits received;
  - ◊ number of kits processed;
  - ◊ number of kits not tested; and
  - ◊ reason why a sexual offense evidence kit was not tested.

DCJS must provide quarterly reports to the Legislature by January 1, 2018, and annually thereafter.

Effective November 28, 2017, DCJS must ensure that all police agencies and prosecutor's offices and forensic labs are educated and aware of the provision of the new law.

## OPDV Excelsior Fellow Máire Cunningham

Hello! My name is Máire Cunningham and I am OPDV's newest Excelsior Fellow.



The Excelsior Fellowship provides recent college graduates with the opportunity to work in public service to formulate policy and cultivate management skills.

I obtained a master's degree in public history from the University at Albany in May 2016 and have prior experience

in archives, museums and political journalism.

My work at OPDV is allowing me to use my education and professional experience in ways I had never expected. I have been doing research on domestic violence, specifically the intersection between domestic violence and homelessness. My primary focus so far has been on abusive partner intervention programs. I have been analyzing the historical relationship between these programs and OPDV, hosting various presentations, and

monitoring developments within these programs.

I am so grateful to Gwen Wright for giving me the opportunity to work at this wonderful agency and to the OPDV staff for being so welcoming! I can honestly say that I have learned something new every day since I began working here last fall. I am looking forward to all the things I will learn during the remainder of my two-year placement at OPDV.

## Forensic Rape Exam Direct Reimbursement Program

In New York State, medical providers who treat victims of sexual assault are required by law to notify those individuals that the cost of a forensic rape exam they undergo can be billed directly to the state [Office of Victim Services](#) (OVS).

The agency will directly reimburse the medical provider for those services,

which is an exception to its role as a payer of last resort. This exception helps ensure privacy for victims of sexual assault. If they have health insurance, they are not required to use it. It also assists individuals who do not have access to private health insurance.

Visit the [OVS website](#) for more information

about the program, including frequently asked questions, a presentation for providers, memos detailing laws and regulations related to forensic rape exams and a downloadable claim application. This [brochure](#) details other assistance provided by OVS.

NYS Office for the Prevention of Domestic Violence [www.opdv.ny.gov](http://www.opdv.ny.gov)

Please send any comments or content ideas to: [opdvbulletin@opdv.ny.gov](mailto:opdvbulletin@opdv.ny.gov)

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