

Montana Department of Justice

Sexual Assault Kit Initiative

Course “Public Policy”

Intro

Slide 2: Welcome to the course, Public Policy.

Slide 3: DISCLAIMER: This project was supported by Grant No. 2016-AK-BX-K015 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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Slide 4: In this course, we will provide you with a general introduction into criminal law regarding sex crimes. The statutes include a lot of information, but we simplified the definitions. For more information on each statute, select the links provided with each definition.

Slide 5: Public Policy can be a dry topic and you might be wondering why you should care. Here is why: When sexual assaults occur, patients deserve competent and compassionate care. The only way to put patients in a position of being able to make informed decisions about whether to allow a procedure is by presenting them with all relevant information in a language they understand. The effective collection of evidence is of paramount importance to successfully prosecute sex offenders. For those reasons, it is important for you to understand the criminal statutes associated with sexual violence.

Slide 6: Interactive Slide. 45-2-101 Definitions: Review the Definitions. Select the Continue button to continue.

Forcible Felony: "Forcible Felony" means a felony that involves the use or threat of physical force or violence against any individual.

Knowingly: The term knowingly, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning. For an exact quote on this definition, visit 45-2-101 (35).

Penetration: For purposes of "Sexual intercourse" as described in subsection 68(a), any penetration, however slight, is sufficient.

For more information on this definition, visit 45-2-101 (68b)

Purposely: With a deliberate, conscious, or express purpose; intentionally.

Equivalent terms, such as “purpose” and “with the purpose”, have the same meaning.

For an exact quote on this definition, visit 45-2-101 (65).

Sexual Contact: "Sexual contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

- (a) cause bodily injury to or humiliate, harass, or degrade another; or
- (b) arouse or gratify the sexual response or desire of either party.

Sexual Intercourse: "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

- (i) cause bodily injury or humiliate, harass, or degrade; or
- (ii) arouse or gratify the sexual response or desire of either party.

Slide 7: Copy of Interactive Slide. 45-2-101 Definitions: Review the Definitions. Select the Continue button to continue.

Menu

Slide 8: Menu: Click and Reveal.

- [45-5-501 Consent & Force](#)
- [45-5-502 Sexual Assault](#)
- [45-5-503 Sexual Intercourse Without Consent](#)
- [45-5-508 Aggravated Sexual Intercourse Without consent](#)
- [46-15-404. Sexual assault evidence kit collection and storage -- consent of patient -- notice to law enforcement.](#)
- [46-15-405 Statewide sexual assault evidence kit tracking system](#)
- [46-15-406 Notice of rights for victims of sexual assault](#)
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- [Quiz](#)

45-5-501, Consent & Force

Slide 9: The term “Consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact.

The term "Force" means: the attempted, threatened, or actual infliction of bodily injury or the commission of a forcible felony by the offender; or

the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

Find more information in the following statutes [45-5-502](#), [45-5-503](#), [45-5-508](#).

45-5-502 Sexual Assault

Slide 10: (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

45-5-503 Sexual Intercourse Without Consent

Slide 11: (1) A person who knowingly has sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of sexual intercourse without consent.

45-5-508 Aggravated Sexual Intercourse Without Consent

Slide 12: (1) A person who uses force while knowingly having sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of aggravated sexual intercourse without consent.

46-15-404 Sexual assault evidence kit collection and storage, consent of patient, notice to law enforcement

Slide 13: Providing patients with the opportunity to sign a written consent form to submit the sexual assault kit for testing.

- 1) Once a health care facility obtains written consent, they should notify the investigating law enforcement agency within 24 hours after the kit was collected.
- 2) If no written consent by the victim was collected, the health care facility should inform the victim that the obtained evidence in the kit will be forwarded to the Office of Victim Services

(OVS) as anonymous. This paragraph also explains that the kit will be stored by OVS for a minimum of 1 year, and that the victim can still provide consent for testing within that time frame.

- 3) If consent was given, the law enforcement agency should take possession of the sexual assault evidence kit from the health care facility within 5 days. If the sexual assault fell outside of the current law enforcement agency's jurisdiction, it will be forwarded to the correct law enforcement agency instead.
- 4) The investigating law enforcement agency should submit the evidence and police report to a publicly accredited crime laboratory within 30 days after receiving the kit.
- 5) What happens if law enforcement fails to submit the request for analysis within the time limits?

46-15-405 Statewide sexual assault evidence kit tracking system

Slide 14: The Department of Justice created, operates, and maintains a statewide sexual assault evidence kit tracking system. The tracking system must track the status of the sexual assault evidence kit throughout its lifetime. Law enforcement agencies, health care facilities, crime laboratories, etc. must be able to update the status and location of the kit and use the tracking system as provided in the rules.

The individual must be able to anonymously track the location and status of their kit. Information contained in the sexual assault evidence kit tracking system is confidential and not subject to public disclosure.

46-15-406 Notice of rights for victims of sexual assault

Slide 15: The department of justice has prepared a model form for use by health care facilities and law enforcement agencies that details the statutory rights of victims of sexual assault. The form also includes step-by-step instructions on how to track a sexual assault kit. Since the form is included in the sexual assault kit, it should be provided to the victim.

- (1) a victim may receive a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if the victim does not want to participate in a criminal investigation;
- (2) a victim may not be billed for the cost of administering the sexual assault medical forensic examination or collecting evidence for the sexual assault evidence kit;
- (3) on request by a sexual assault victim to the investigating law enforcement agency, the victim may receive the following information:
 - (a) contact information for the officer investigating the case;
 - (b) the current status of the case;
 - (c) whether the case has been submitted to the office of the prosecuting attorney for review;
 - (d) whether the case has been closed and the documented reason for closure;
 - (e) if available, contact information for a local community-based victim services program;

- (f) notifications of the victim's legal rights, including the right to file a petition requesting an order of protection; and
- (g) the notice required by [46-24-203](#), [46-24-204](#), and [46-24-206](#).

Course Continued

Slide 16: Information Card: The information card is included in the sexual assault evidence kit in order for the individual to track their kit. The information card has two sides, a front and a back. The front of the information card gives the individual detailed instructions how to check on their kit's status online. The back of the card lists the Victim Rights.

Slide 17: Consent Form: There are two essential but separate consent processes:

- 1) For the overall medical evaluation and treatment, and
- 2) For the evidence collection and release.

Patients can decline any part or all of the examination. The consent form advises the patient of the following:

1. Health care professional's role and confidentiality
2. What a forensic medical examination consists of
3. Exam and reporting options

Slide 18: However, the nurse may inform the patient of the impact of declining a procedure, as it may negatively affect the preservation and the usefulness of evidence collection. It may also have a negative impact on a criminal investigation.

Quiz

Slide 19: Multiple Choice: Once a health care facility obtains written consent from the patient to submit the sexual assault kit to law enforcement, they should notify the investigating law enforcement agency within ___ after the kit was collected.

- A) 24 Hours
- B) 5 Days
- C) Immediately
- D) 12 Hours

Correct Answer: That's correct! After the health care facility obtains written consent from the patient to submit the sexual assault kit to law enforcement, they should notify the investigating law enforcement agency within **24 hours** after the kit was collected. Click anywhere to continue.

Incorrect Answer: No, that's incorrect. After the health care facility obtains written consent from the patient to submit the sexual assault kit to law enforcement, they should notify the investigating law enforcement agency within **24 hours** after the kit was collected. Click anywhere to continue.

Slide 20: Correct or Incorrect: A victim may receive a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if the victim does not want to participate in a criminal investigation.

- True
- False

Correct Answer: That's true! A victim may receive a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if the victim does not want to participate in a criminal investigation. Click anywhere to continue.

Incorrect Answer: No, that's not right. A victim may receive a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if the victim does not want to participate in a criminal investigation. Click anywhere to continue.

Slide 21: Correct or Incorrect: Patients can decline any part or all of the examination. However, the informed consent process includes making patients aware of the impact of declining a procedure, as it may negatively affect the preservation and the usefulness of evidence collection or the criminal investigation.

- Correct
- Incorrect

Correct Answer: That's correct. Patients can decline any part or all of the examination. However, the informed consent process includes making patients aware of the impact of declining a procedure, as it may negatively affect the preservation and the usefulness of evidence collection or the criminal investigation. Click anywhere to continue.

Incorrect Answer: No, that's incorrect. Patients can decline any part or all of the examination. However, the informed consent process includes making patients aware of the impact of declining a procedure, as it may negatively affect the preservation and the usefulness of evidence collection or the criminal investigation. Click anywhere to continue.

Slide 22: Choose the correct term: ____ means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely cause bodily injury to or humiliate, harass, or degrade another; or arouse or gratify the sexual response or desire of either party.

- Sexual Contact
- Sexual Intercourse
- Consent
- Force

Correct Answer: That's right! "Sexual Contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely cause bodily injury to or humiliate, harass, or degrade another; or arouse or gratify the sexual response or desire of either party. Click anywhere to continue.

Incorrect Answer: No, sorry, that's wrong. "Sexual Contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely cause bodily injury to or humiliate, harass, or degrade another; or arouse or gratify the sexual response or desire of either party. Click anywhere to continue.

Slide 23: Choose the correct term: The term _____, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

- Knowingly
- Purposely
- Forcible Felony
- Sexual Contact

Correct Answer: Yes, that's correct. The term knowingly, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result. Click anywhere to continue.

Incorrect Answer: No, sorry, that incorrect. The term knowingly, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result. Click anywhere to continue.

Slide 24: Please provide your feedback below.

Slide 25: Quiz Results.

Slide 26: In this course, you have received a general introduction into criminal law regarding sex crimes.

Slide 27: Thank you for completing this course. Select the Close button to exit.