

CAC Medical Provider Conference: KY law governing child sexual abuse response

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KY Assoc. of Sexual Assault Programs

Key concepts to know

KSP = Kentucky State Police

SAFE = Sexual assault forensic examination

- Always optional for a victim

SAECK = Sexual assault evidence collection kit

- Provided by KSP

SANE = Sexual assault nurse examiner

- Adult and pediatric
- Credentialing [201 KAR 20:411](#)

LE = Law enforcement

CHFS = Cabinet for Health and Family Services

CPS = Child protective services

APS = Adult protective services

RCC = Rape crisis center

KRS = Kentucky Revised statutes

KAR = Kentucky Administrative Regulations

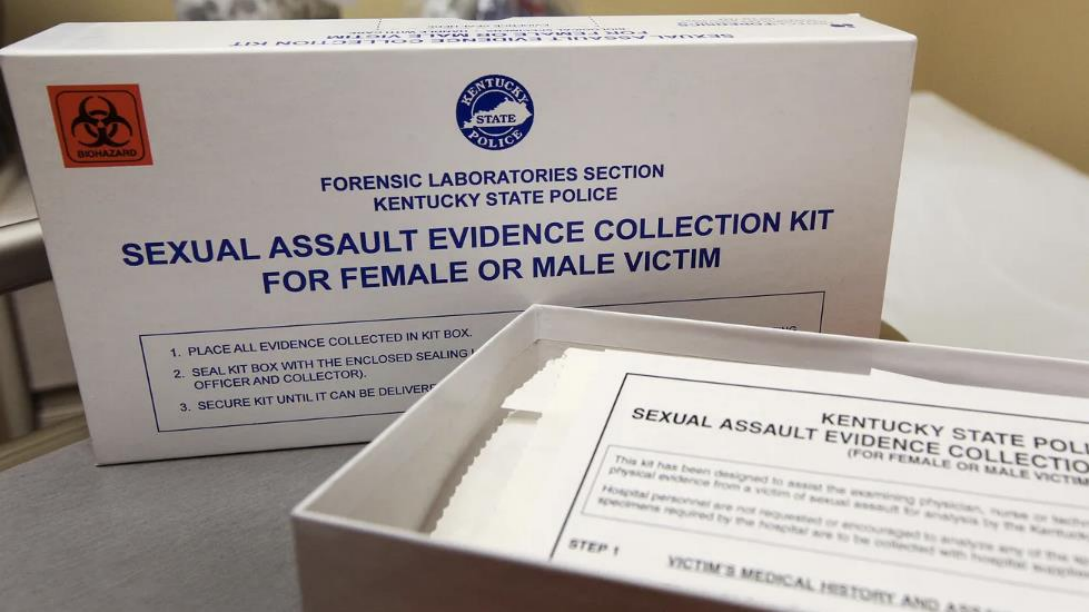


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Key Understandings

1. Every ED in KY must provide a SAFE when requested by a victim, whether or not a SANE is available.
2. Victim consent to a SAFE and police reporting is primary.
3. SAFE is an optional tool that may support a sexual assault investigation.
4. ED is required to contact RCC prior to a SAFE.
5. Minor victims can consent to a SAFE on their own.
6. All victims are entitled to information regarding treatment for HIV, STI, pregnancy .
7. Police cannot force a victim to cooperate with a sexual assault investigation, nor undergo a SAFE.
8. When you have a child victim, you are required to follow the “Kentucky Medical Protocol for Child Sexual Assault/Abuse Evaluation”.
9. If the assault was within 96 hours, you shall utilize the SAFE.
10. “Child abuse” under mandatory reporting laws requires attention to the child’s relationship to the abuser and/or ages of the child and the abuser, and the setting where the abuse took place.
11. There is no general duty to report sexual violence.
12. Kentucky does not single out a specific age as the “age of consent”.
13. Under KY criminal code, sexual intercourse and deviate sexual intercourse includes penetration by body parts or foreign objects.
14. There is no general duty to report domestic violence.
15. NEVER release a kit to police without victim authorization.
16. Examination facility is required to store an unreported kit for up to one year and follow victim instruction on whether to destroy the kit.
17. A small percentage of cases are reported and prosecuted, even less go to trial.
18. Mandatory reports do not always lead to criminal charges.

Sexual assault evidence collection kit



SAECK tracking portal <https://ksponline.ky.gov/safekit/>

Search by Kit ID Se

About Rape Crisis Centers FAQ
Legal Steps Links

5643	1169	2690	2690
Kits Collected	Kits Not Reported	Kits At Lab	Kits Completed

KIT TESTING

KSP Laboratories

In 2012, the KSP Laboratory staff began a statewide program to locate sexual assault evidence collection kits that had been sitting on the shelves of police storage facilities, having never been submitted to the lab for testing. Some of these kits were from recent assaults and others from attacks years ago

KSP Central Lab

The KSP Laboratory worked with law enforcement agencies to have the kits submitted to the laboratory where they were labeled as "Sexual Assault Initiative Cases" and grant money was sought to have the cases worked.

For your reference...

- [KRS 216B.400](#) (SV response: hospital duties & victim rights)
- [502 KAR 12:010](#) (SAFE protocol, police involvement, victim rights)
- [902 KAR 20:012](#) (add'l mandates re access to SAFE)
- [201 KAR 20:411](#) (SANE credentialing and standards)
- [KRS 49.270 to 49.490](#) (Crime Victims Compensation)
- [802 KAR 3:020](#) (Sexual Assault Exam Program, CVC reimbursement)
- [KRS 216B.140](#) (Medical/diagnostic services mandate for minor victims of SV)
- [KRS 216B.400\(7\)](#) (Minor victim rights to SAFE without parent consent)
- [KRS 216B.400\(5\)](#) (Victim rights to STI treatment and care)
- [KRS 214.185](#) (Minor victim rights to STI and pregnancy care without parent consent)
- [502 KAR 12:010\(5\)\(f\)](#) (Victim rights to STI, HIV, pregnancy information and care)
- [2024 National Protocol for Sexual Assault Medical Forensic Examinations - Adult-Adolescent](#)
- [KY SANE-P Medical Protocol](#)

1. Key Understanding: Every ED in KY must provide a SAFE when requested by a victim, whether or not a SANE is available.

216B.400 (2) Hospital ED shall have a medical professional available to do a SAFE at all times

- Every KY hospital which offers emergency services shall provide that a physician, a sexual assault nurse examiner, ... or another qualified medical professional, ... is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510... 530... 531.310

2. Key Understanding: Victim consent to SAFE and police reporting is primary.

- [KRS 216B.400](#) = Requires victim consent prior to the execution of a sexual assault forensic exam + Victim decides whether to engage police/file a report + Minor victims may consent to exams and their consent is not subject to the disaffirmance of parents. Parental consent is not required.
- [502 KAR 12:010](#) = Documented consent is required prior to the execution of a sexual assault forensic exam + Victims may withdraw at anytime during the collection of forensic samples + Victim decides whether to report to police + Requires victim's authorization for release of information to police.

SAFE facilities 216B.400 (3)

- “SAFE... may be performed in a sexual assault examination facility as defined in KRS 216B.015”
- [216B.015\(27\)](#) "**Sexual assault examination facility**" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health and Family Services, and that provides sexual assault examinations under KRS 216B.400;

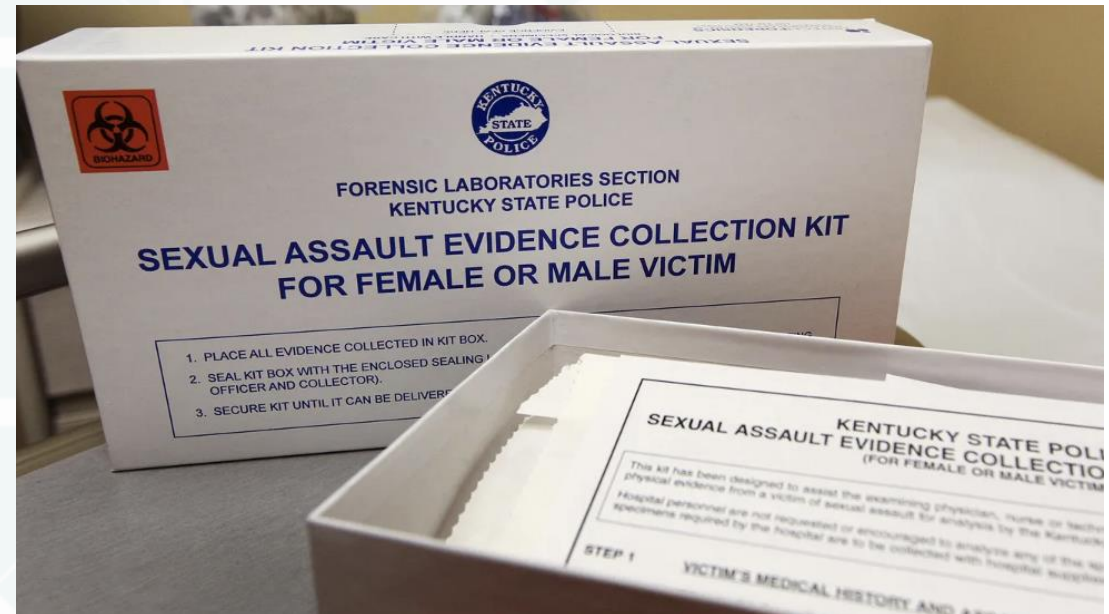


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3. Key Understanding: SAFE is an *optional* tool that may support a sexual assault investigation.

What is a SAFE kit? What is its purpose?

- **216B.400(4)** The physician shall... with the consent of the victim... examine such person for the purposes of
 - providing basic medical care relating to the incident and*
 - gathering samples that may be used as physical evidence.*
- Forensic tool distributed by KSP.
- Never release back to KSP without victim consent.
- Includes tracking number.



VICTIM'S MEDICAL HISTORY AND ASSAULT INFORMATION
(Please print with a dark, ballpoint pen - press firmly)

1. Investigating Agency: _____ 2. Officer: _____

3. Victim's Name: _____ 5. Ethnicity: _____ 6. Male Female

4. Date of Birth: _____ / ____ / 20 ____ : ____ AM / PM

7. Date and time of reported assault: _____ / ____ / 20 ____ : ____ AM / PM

8. Date and time of hospital examination: _____ / ____ / 20 ____ : ____ AM / PM

9. Examiner(s) (Print): _____

10. Between the assault and now, has the victim:

<input type="checkbox"/> Douched	<input type="checkbox"/> Defecated	<input type="checkbox"/> Brushed teeth
<input type="checkbox"/> Bathed/Showered	<input type="checkbox"/> Vomited	<input type="checkbox"/> Used Mouthwash
<input type="checkbox"/> Urinated	<input type="checkbox"/> Anything to Eat or Drink	<input type="checkbox"/> Changed Clothes / Underwear (circle one or both)
<input type="checkbox"/> Other: _____		

11. Does victim remember and can communicate what happened to them during the assault?: Yes No If yes, consider a DFSA toxicology collection

12. Did the victim experience a loss of memory and/or consciousness? Yes No

13. Was a blood/urine toxicology kit collected? Yes No

14. Was there penetration of:

Vagina	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
Anus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mouth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. Was there oral/genital contact:

Contact of victim's mouth to assailant's genitals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contact of assailant's mouth to victim's genitals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. Did assailant penetrate orifice/with:

Vagina	<input type="checkbox"/>	penis	<input type="checkbox"/>	finger(s)	<input type="checkbox"/>	foreign object(s)	<input type="checkbox"/>
Anus	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
Mouth	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>

17. Did the assailant masturbate? Yes No Not Sure

18. Did ejaculation occur? Yes No Not Sure

[If yes, note location(s):

<input type="checkbox"/> vagina	<input type="checkbox"/> body surface	<input type="checkbox"/> other: _____
<input type="checkbox"/> anus	<input type="checkbox"/> clothing: _____	
<input type="checkbox"/> mouth	<input type="checkbox"/> bedding: _____	

19. Did assailant use: Condom* Lubricant* Saliva as a lubricant

20. Was victim menstruating at time of:

Assault	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

21. Any injuries to the victim resulting in bleeding?
If yes, describe: _____

22. Any consensual sex or sex acts in the last week?
If yes, Date: _____ / ____ / 20 ____ Time: _____ : ____ AM / PM Male Female

Name: _____

If yes, was condom used? Yes No With object

If yes, what act(s)? Vaginal sex Victim's mouth to consensual partner's genitals Consensual partner's mouth to victim's genitals Anal sex

23. Were any of the following collected during the examination?
 Tampon Sanitary Pad Panty Liner Diaper Condom Other: _____

24. Number of assailant(s)? _____ 25. Name(s) of assailant(s) if known: _____

26. Age of assailant(s): _____ 27. Ethnicity of assailant(s): _____

28. Assailant(s) relationship to victim (check all that apply):
 Stranger Acquaintance Cohabitant Relative/Significant Other (specify): _____

29. Any injuries to assailant(s) resulting in bleeding?
If yes, describe: _____

30. Coercion used: Choked** Knife Gun Physical Threats Verbal Threats Other: _____
**If manual strangulation, were neck swabs collected? Yes No

31. List of victim's clothing at the time of the assault: _____
Were these items collected during the examination? Yes No

32. Victim's description of reported assault (use an additional sheet of paper if necessary and include a copy in kit/provide to investigating officer): _____

4. Key Understanding: ED is required to contact RCC prior to a SAFE.

502 KAR 12:010 Section 2. Preforensic-Medical Examination Procedure. If a person seeking treatment as a victim arrives at an examination facility, the appropriate staff at the facility prior to conducting the forensic-medical examination SHALL COMPLY with the following requirements:

(1) Reporting to the Rape Crisis Center Advocate. The examination facility staff shall:

- (a) Contact the rape crisis center to inform the on call advocate that a victim has arrived at the examination facility for an examination; and
- (b) Upon arrival of the advocate, ask if the victim wishes to have a rape crisis center advocate present for the examination or otherwise available for consultation.



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14-year-old Sally is referred to the CAC because she was raped by her 19-year-old boyfriend. Mom insists that Sally get a SAFE. Sally remains quiet and appears upset. Sally secretly asks if she can get STI treatment.

- Who decides if Sally gets a SAFE?
- Can you provide STI treatment?



5. Key Understanding: Minor victims can consent to a SAFE on their own

216B.400(7) Minor consent

- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.

6. Key Understanding: All victims are entitled to information regarding treatment for HIV, STI, pregnancy (not abortion).

*regardless of whether the patient is a minor

*regardless of whether parents are involved in the conversation

*regardless of whether the victim wants a SAFE.

502 KAR 12:010(5)(f)

“ED staff shall... inform the victim of the need for a physical examination due to the risk of sexually transmitted infections, including HIV, pregnancy, injury, or other medical problems whether or not the victim chooses to have the evidence collected”

KRS 214.185 Physician treatment of minors without parent consent.

Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for

venereal disease

pregnancy

substance use disorder

and may advise, prescribe for, and treat such minor regarding

venereal disease

contraception, pregnancy, or childbirth

substance use disorder

all without the consent of or notification to the parent.

KRS 214.185 Physician treatment of minors without parent consent.

- The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed **where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.**
- Treatment under this section does not include inducing of an abortion or performance of a sterilization operation.

216B.400(5-6) Victims have a statutory right to be informed of services available for treatment



- (5) Each victim shall be informed of available services for treatment of:
 - sexually transmitted infections *includes whether the patient needs HIV prophylaxis,
 - Pregnancy *limitations regarding abortion referral and counseling services
 - other medical and psychiatric problems
- (6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault

You may prescribe emergency contraception → [KRS 214.185](#)

- Because emergency contraception will not harm an existing pregnancy

KRS 620.050(14)

Medical evaluations in child abuse cases

- In child abuse cases – under KRS 620 medical professionals may collect photos, x-rays, and perform “other medical diagnostic procedures” without the consent of the parent or guardian

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12-year-old Sally is having sex with a 17-year-old, she believes it is a consensual relationship. Her parents bring her into the ED demanding that police be called and an exam performed. ED calls you for guidance. What do you advise?

12-year-old Sally's parents are very angry, still demanding an exam. They have called police and police appear with a search warrant for a SAFE. Sally is very opposed. What do you advise the ED staff?

7. Key Understanding: Police cannot force a victim to cooperate with a sexual assault investigation, nor undergo a SAFE.

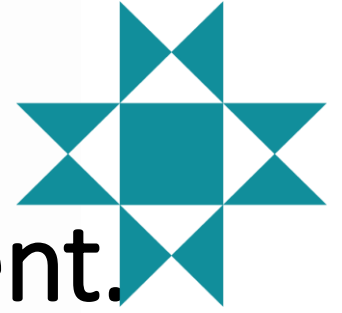


KRS 216B law states: the execution of a SAFE exam is lawful upon victim consent... or at the request of officers or prosecutors, AND with victim consent

Reporting is optional. Sending a kit to the lab is optional. 502 KAR 12:010

Search warrants cannot serve as proxy for victim consent

Search warrants authorize police action.
Ignoring the requirement of victim consent.
Ignoring the requirement of a court order.



1. search warrant for SAFE violates KY law
2. ability to execute a search warrant on behalf of police is subject to an accompanied court order

8. Key understanding: When you have a child victim, you are required to follow the “Kentucky Medical Protocol for Child Sexual Assault/Abuse Evaluation”

(2) If the reporting patient is a child, examination facility staff shall refer to the “Kentucky Medical Protocol for Child Sexual Assault/Abuse Evaluation” developed by the Sexual Assault Response Team Advisory Committee for guidance in conducting the forensic evidence exam.

502 Ky. Admin. Regs. 12:010

<https://cackentucky.org/medical-resources/>

Statewide protocol:

"A child should never be forced, restrained, or sedated for the sole purpose of evidence collection." For unconscious pubertal patients, evidence collection MUST be deferred until the patient is medically stable and able to provide consent. • For unconscious prepubertal patients, a legal custodian can provide informed consent. • In the event the caregiver is unable, unwilling, or not available to provide consent for a child who cannot otherwise consent themselves for the exam, consult the facility legal department (Refer to KRS 620.050). • If a child does not consent or assent to the collection of evidence, an evidence collection kit should not be obtained. A child should not be physically restrained for the sole purpose of evidence collection. When injury, infection, or other medical condition is suspected, sedation or anxiolytic may be considered. If there are questions regarding whether collection should be attempted, consultation with an expert is recommended. • If the patient's capacity to consent/assent changes (e.g. change in mental status, level of consciousness, or ability to give ongoing consent), stop evidence collection and address medical concerns. Reassess proceeding with evidence collection when appropriate. • If parent consents to the exam but the patient does not assent for evidence collection, then explore with the patient the reason for not proceeding and attempt to reconcile the issue. If reconciliation is unsuccessful, do not proceed with evidence collection.

Consent to SAFE: Younger children and vulnerable or disabled adults

Key question = Are they developmentally capable of consenting to the exam?

- Consider the developmental and cognitive capacity of the child or vulnerable adult. *obviously a 3 year old can't consent
- A child, **who is developmentally capable of consenting**, has authority to consent.
- A disabled or vulnerable adult, **who is developmentally capable of consenting**, has authority to consent.

Unconscious patients – questions to consider

- Is this person going to regain consciousness soon?
- What do the next 96 hours look like?
- Would this person ordinarily have the mental capacity to consent?
- Is there a reliable, nonoffending caretaker or family member present?
- What is their position?
- What are internal hospital policies governing decision-making by a guardian?

9. Key Understanding: if the assault was within 96 hours, you shall utilize the SAFE

(3) If the sexual assault occurred within ninety-six (96) hours prior to the forensic-medical examination, a Kentucky State Police Sexual Assault Evidence Collection Kit shall be used.

502 Ky. Admin. Regs. 12:010 (section 3(3))



If outside 96 hours...

(1) A physical examination may be conducted for basic treatment and to collect samples in all cases of sexual assault, regardless of the length of time that may have elapsed between the time of the assault and the examination itself.

502 Ky. Admin. Regs. 12:010 (section 3(1))



11-year-old Sally was raped by her 16-year-old boyfriend, who her mom allows to live with them. She wants a SAFE but her mom does not. Her mom comes into the exam room, which makes Sally very upset. ER staff call asking for guidance. What do you advise? Should they proceed with the exam without Sally's mom? Is there a duty to report?

10. Key Understanding: “Child abuse” under mandatory reporting laws requires attention to the child’s relationship to the abuser and/or ages of the child and the abuser, and the setting where the abuse took place.

- Refer to the mandatory reporting statutes:
 - CHILD ABUSE = KRS 600.020 AND KRS 620.030
- KY law mandates that you (anyone – not just professionals) must make a report if you have **reasonable cause to believe** that:
 - A **child** is being neglected or abused as defined in statute
 - And that the abuse is by a parent, caretaker, etc. (long list! Refer to statute)
 - Or the caretaker *created the risk*
- When in doubt... report! You are immune from liability if done so in good faith. Failure to report is a crime. Ultimately, intake decides!

Sally is 16 and was raped by a stranger who broke into her home.

Not a report

Sally is 16 and was raped by a stranger who broke into her home while her parents were smoking meth

That is a report. Why?

Questions to consider when you encounter a child who has been harmed (to determine whether the abuse is a mandatory report)

- What is the relationship between the child and the adult?
- What is the developmental and cognitive capacity of the child?
- Does this child rely on this person for their basic needs? (long term or temporarily)
- Does this child want to please this person?
- Is the adult 21 or older? (child less than 16)
- Was this person supervising the child?
- Does the child trust this adult?
- How young is the child?
- What degree of isolation?
- Where was the caretaker during the incident?
- Is this child being trafficked or a victim of female genital mutilation?

11. Key Understanding: There is no general duty to report sexual violence.

- Sexual violence against a child **might not** be a mandatory report **if**:
 - The perpetrator is another child
 - The perpetrator is less than 21 years-old
 - The perpetrator is a stranger and the caretaker is without fault/did not cause or create the risk of harm
- **Usually**, child-on-child violence outside the home is not a mandatory report
 - Age difference and relationship matters
 - Caretaker's knowledge/neglect matters
- Sexual violence against a child under 16 by an adult is **usually but not always** a mandatory report
 - Perp 21 or older: always
 - Young kiddos: any adult they are alone with is probably in a position of authority/supervisory role
- When a child is being trafficked or has suffered female genital mutilation, you **ALWAYS** have a duty to report

Reporting a crime of sexual violence is *optional*.
Reporting child abuse is not.

502 KAR 12:010 *Optional reporting*

Victims 18+, do not call police without victim authorization.

Victims under 18, assess for child abuse (harm, neglect, etc. by a caregiver, etc.) → call CPS, law enforcement, or prosecutor's office as set out in KRS 620.030

*you are not mandated to call police, there are other options

Consider the victim's position on involving police. Remember minors get to decide whether they get a SAFE and whether they report to police. Calling CPS satisfies your duty to report. If possible, talk to the victim about calling police vs CPS for mandatory reporting purposes.

Reporting a crime of sexual violence is *optional*.

Reporting adult abuse is not.

502 KAR 12:010 Optional reporting

Victims 18+, do not call police without victim authorization.

UNLESS If the victim may be a vulnerable adult as defined in KRS 209.020(4), immediately report the incident to the Cabinet for Health and Family Services and notify the victim of the report.

*you are required to call adult protective services **and** notify the victim of the report

Abuse of a vulnerable adult (adult abuse)

- Requires an assessment of the patient's cognitive capacities. It does not require an assessment of the patient's relationship to the abuser.
- A **vulnerable adult** is someone who cannot take care of their own basic needs due to physical or cognitive disability, is abused or neglected
 - ADULT ABUSE = KRS 209.020 AND KRS 209.030
 - Always report to CPS and always inform the victim

15-year-old Sally just ended a 'relationship' with her 20-year-old basketball coach. She comes into the CAC asking for a SAFE and STI testing. She does not want her parents to know. She does not want to call police. What do you do?

12. Key Understanding: Kentucky does not single out a specific age as the “age of consent”.

Myth: the “age of consent” in KY is 16.

Reality: Children under 16 can have consensual sex under the law.

KRS Chapter 510 sets out a variety of age brackets.

Child abuse report – age of under 16 and over 21

KRS 532.045(1)

- (a) "Position of authority" means but is not limited to the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health-care provider, or employer;
- (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; a

Sally is 16 and was raped by her father

- Is this a report? Absolutely!!

Sally is 14 and was raped by her 16 year old brother

- Yes –
- (a) "Position of authority" means but is not limited to the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health-care provider, or employer;
- Ask if mom/dad are creating the risk - 5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; 6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

502 KAR 12:010 : ED shall consult with CHFS or LE for referral to CAC

502 KAR 12:010 (2) Limited Mandatory Reporting to the Cabinet for Health and Family Services.

(a) **If the victim is less than eighteen (18) years old**, the examination facility staff shall:

1. Assess whether the victim may be an abused, neglected, or dependent child, **as defined in KRS 600.020**. If child abuse, neglect, or dependency is suspected, medical personnel shall immediately report the incident to the Cabinet for Health and Family Services, a local or state law enforcement agency, or the Commonwealth's attorney or county attorney in accordance with **KRS 620.030**; and

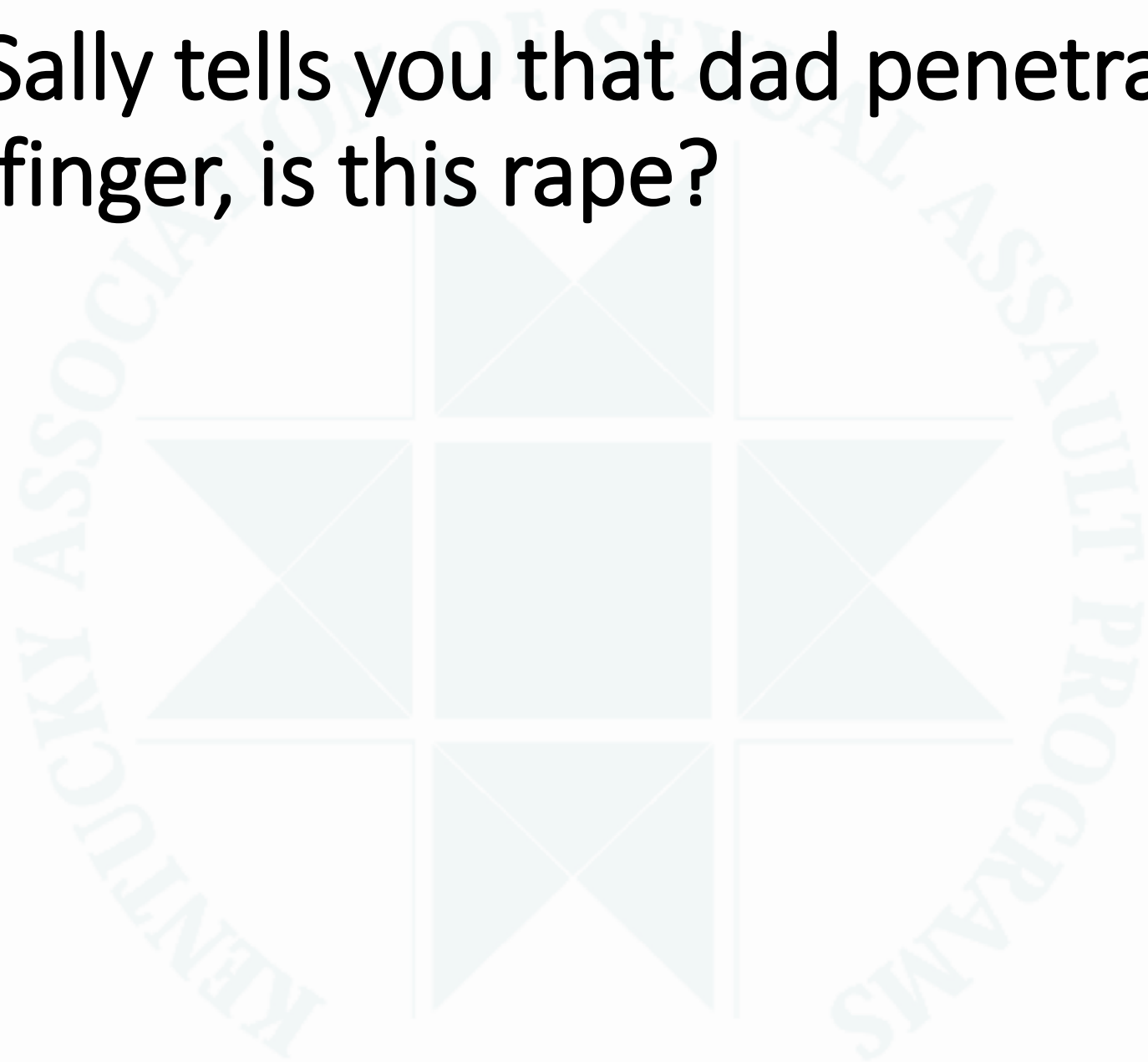
2. If a report is made, consult with the Cabinet for Health and Family Services or law enforcement to determine whether referral to a **regional children's advocacy center** or other specialized treatment facility is in the best interest of the child.

(b) If the victim is eighteen (18) years old or older, the examination facility staff shall:

1. Not contact law enforcement or release any information to law enforcement without the victim's authorization.

2. If the victim may be a vulnerable adult as defined in KRS 209.020(4), immediately report the incident to the Cabinet for Health and Family Services and notify the victim of the report.

What if Sally tells you that dad penetrated her with his finger, is this rape?



13. Key Understanding: Under KY criminal code, sexual intercourse and deviate sexual intercourse includes penetration by body parts or foreign objects.

“Sexual intercourse” means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by any body part or a foreign object manipulated by another person.

"Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by any body part or a foreign object manipulated by another person.

14. Key Understanding: There is no general duty to report domestic violence.

- **Assess for whether this is child abuse under mandatory reporting:**
 - Is the child in the crossfire?
 - Is the abuse creating a risk maltreatment or neglect?
 - Does the child appear afraid of his/her parent?

15. Key Understanding: NEVER release a kit to LE without victim authorization

If the victim chooses to report and wants the kit released to LE, obtain and document the patient's informed consent to release information (including samples) to LE.

KIT TRACKING #: 502 KAR 12:010(3) *requires* entry into SAFE kit tracking portal

KIT TRACKING DATABASE KRS 16.132 <https://ksponline.ky.gov/safekit/>

Contact LE within 24 hours and turn over to LE

If LE doesn't come within 5 days to the hospital to pick up the kit, notify KSP lab directly.

- take into custody, **within five (5) days** of notice from the collecting facility that the evidence is available for retrieval, any evidence collected as a result of an examination.
- transmit any evidence, received from a collecting facility relating to an incident which occurred outside the jurisdiction of the department, to a department with jurisdiction **within ten (10) days** of its receipt by the department;
- transmit to the Department of Kentucky State Police forensic laboratory **within thirty (30) days** of its receipt by the department all evidence retrieved from a collection facility

16. Key Understanding: Examination facility is required to store a kit for up to one year and follow victim instruction on whether to destroy the kit.

1. At least 14 days prior to the expiration of the required storage or 14 days prior to a scheduled destruction, the examination facility, if storing the samples, or designated storage facility should **contact the victim to ascertain whether the victim wishes to file a report with law enforcement and authorize release of the samples to law enforcement officials or have the samples destroyed.**
2. **The facility shall only contact the victim as set forth at the time of collection or as set forth in a written request submitted by the victim thereafter.**
3. If the facility is not able to contact the victim within one attempt, does not receive a reply communication **within ten (10) days of an attempted contact**, or if the victim decides not to file a report with law enforcement officials, the facility may destroy the samples in accordance with the facilities policy and procedure for destruction of biological samples.

17. Key Understanding: Small percentage of cases are reported and prosecuted, even less go to trial.

- If you testify, it will most likely be at a Daubert hearing or jury trial (possibly but unlikely, grand jury)
- Keep your CV updated for purposes of qualifying as an expert witness
- What to expect when contacted by prosecutors, police, and defense investigators
- Significance of detailed documentation
 - Use quotations!
 - Time lapse between exam and trial

Sally is 3 told her mom that dad put something in her butt. You file a mandatory report. LE and the cabinet do a joint investigation. The cabinet “substantiates” the case.

No other evidence supports the accusation, so no criminal charges are filed.

Does that mean the police will file criminal charges?

DNA court adjudicates for neglect or abuse (substantiate/unsubstantiate).

CHFS Child Abuse Investigations: Dependency, Neglect, and Abuse (DNA)

- CHFS is concerned with child welfare as it relates to their daily care and wellbeing
 - CHFS investigates reports of child abuse
 - CHFS may operate in partnership with law enforcement, but their investigations are independent and their goals are different

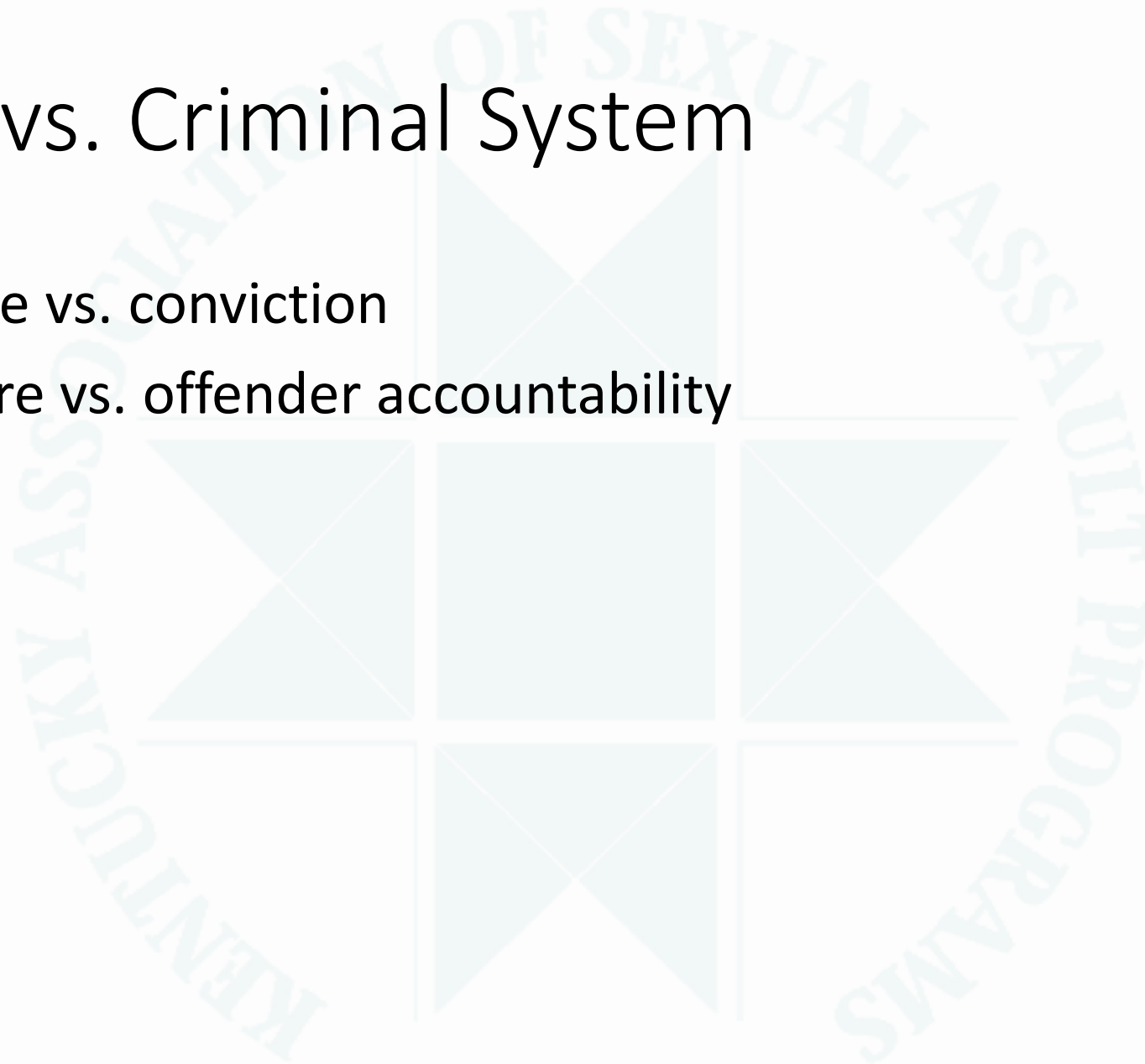
No other evidence supports the accusation.
The cabinet “substantiates” Sally’s case.
Does this mean police will file criminal
charges?

18. Key Understanding: Mandatory reports do not always lead to criminal charges.

- Duty to report is motivated by the Cabinet's interest in protecting children – it is not for the purpose of holding criminals to account
- Law enforcement may *also* investigate and criminal charges may be brought; this is a separate proceeding and charges coming

Cabinet vs. Criminal System

- Substantiate vs. conviction
- Child welfare vs. offender accountability



Subpoena response

- Subpoena for records → should go to custodian of records
- Subpoena for your testimony → contact the issuing attorney asap

If you get a trial subpoena...

Staple questions/questions to expect

1. Training and experience
2. Practice as a physician or NP
3. Role as a CAC physician or NP
4. Purpose of the exam
5. Whether you judge the truthfulness of a patient's description
6. The presence (or lack thereof) of injuries associated with sexual assault/rape
7. We can provide pictures and body maps if needed for testimony also

What else?

Summary: Types of protective orders



- EPO/DVO
 - Family members (spouses, ex-spouses, parents, children, grandparents, grandchildren, adult siblings)
 - Members of an unmarried couple (people who have lived together as a couple or people who have a child together)
- TIPO/IPO
 - Partners of a dating relationship.
 - Survivors of SV and stalking

Kentucky Association of Sexual Assault Programs (KASAP)

- [Hospital Training Video Project](#)