Australasian College for Emergency Medicine

Forensic testing and examination in emergency departments

V3 P37

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Document Review

Timeframe for review:	Every two years, or earlier if required
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Revision History

Version	Date	Pages revised / Brief Explanation of Revision
V1	Jul-2005	Approved by Council.
V2	Nov-2000	Reviewed and approved.
V3	Dec-2024	Scope and purpose extended. Whole of document review. Approved.

1. Purpose and scope

This policy relates to the performance of forensic medical examinations and the collection of forensic tissue samples within emergency departments (EDs). The policy is applicable to EDs in Australia and Aotearoa New Zealand.

2. Introduction

Clinical forensic medicine is a unique medical discipline concerned with the provision of forensic medical services and the collection and interpretation of information for the purposes of civil and criminal law, the judiciary and the police. It deals with both medical and legal aspects of care, particularly for those subjected to interpersonal violence that includes sexual, physical, family and domestic violence and abuse.

Forensic medical examinations and evidence collection is not a core activity of EDs.

In locations where there are no specialist forensic practitioners or services available, the ED may be requested to undertake forensic medical examinations and/or specimen collection for alleged victim-survivors or perpetrators of interpersonal violence.

This policy should be read in conjunction with ACEM policies and documents outlined in the Related documents section.

3. Definitions

Trauma informed care/practice

Trauma-informed practice considers trauma (broad psychological and neurobiological effects of an event, or series of events, that produces experiences of overwhelming fear, stress, helplessness, or horror) in all aspects of healthcare. It does not necessarily require health professionals to elicit disclosures of trauma; rather, it requires recognition of the lived experiences of individuals and awareness of triggers which can lead to re-traumatisation and that efforts are made to minimise re-traumatisation.

Interpersonal violence

Interpersonal violence is the intentional use of physical force, or sexual, physical, family and domestic violence and abuse against another person. Interpersonal violence may be threatened or actual and can include emotional, economic and social abuse.

4. Policy

General principles

- The primary focus of an ED is the delivery of emergency medical care to the acutely ill and injured.
- Emergency clinical care always takes precedence over forensic considerations.
- Forensic medical examinations and evidence collection is not a core activity of EDs. Wherever practical forensic examination and testing should be undertaken by a local or regional forensic medical service. If a professional service is unavailable, hospitals should ensure there are arrangements in place with a local or regional forensic medical service.
- In locations where specialist forensic practitioners and services are unavailable, it may be necessary for patients to undergo forensic testing and / or examination in the ED and in such cases, the patient should be assessed and triaged in line with the Australasian Triage Scale (ATS).

- In locations where specialist forensic practitioners and services are available, the collection of specimens (for example, from patients presenting as victim-survivors of sexual assault) should be taken in a timely manner by staff trained in forensic specimen sample collection, evidentiary procedures, and court attendance.

- Forensic examinations take time to complete, where an emergency physician or trainee has been requested to perform an examination, they should be relieved of other duties in the ED during that time.

- It is crucial to optimise the medical care that patients receive while also supporting any forensic and legal processes that patients may subsequently experience.

- EDs must have processes and practices in place to ensure trauma-informed care is provided to all victim-survivors of interpersonal violence.

- Aboriginal and Torres Strait Islander peoples, Māori and culturally diverse communities in Australia and Aotearoa New Zealand may have different perspectives on consent, specimen collection, the provision of information and the involvement of family in the context of forensic testing. Where forensic testing takes place within a hospital, the health service should take every step to ensure that appropriate, culturally safe practices are used, with an emphasis on two-way communication (including through language interpreters).

5. Procedures and actions

5.1 Hospital responsibilities

a) Forensic medical examinations and evidence collection is not a core activity of EDs, so hospitals should have arrangements in place around seeking advice from a local or regional forensic service.

b) All emergency medicine physicians and trainees should be provided with education and resources specific to the general principles of forensic medical examinations and the preservation and collection of forensic evidence.

c) Emergency physicians and trainees need to develop a robust understanding from appropriately trained experts about forensic medical concepts, examination priorities, chain of evidence requirements, and legal processes.

d) Hospitals should have pathways in place for ED staff to access continuing medical education on all aspects of forensic medicine.

e) Emergency medicine trainees should be provided with education and assistance in medico-legal report writing.

f) Hospitals should provide emergency medicine physicians and trainees with access to legal advice and support when they are undertaking or supporting forensic testing and/or examinations.

g) Hospital should support the ED by ensuring the establishment and maintenance of close links with local or regional forensic services to foster timely availability of expert advice and consultation.

h) Hospitals are responsible for the sourcing and supply of forensic kits to the ED.

i) Chaperones are required to accompany clinicians for intimate examinations. Hospitals are responsible for appropriate staff resourcing to support clinicians who undertake forensic testing or intimate examinations, including staff resourcing to enable chaperone availability.

j) Forensic examinations and/or collection of forensic samples should be performed in an appropriate space that is both in line with jurisdictional requirements for obtainment of evidence and ensures the maintenance of patient privacy and dignity. If there is no forensic examination suite is available, the hospital should provide a designated private space where forensic medical examinations can occur.

5.2 ED responsibilities

a) The assessment and management of victim-survivors of interpersonal violence often requires a multi-faceted approach in the ED to address a range of medical, emotional, and psychological needs.

b) EDs should have formal processes regarding furnishing reports to police or legal authorities.

c) EDs should have procedures in place for the collection of blood, urine and other samples requested by the police.

d) EDs should have formal arrangements in place with the police regarding the management of individuals suspected of drug concealment in the form of 'body packing, pushing or stuffing'.

5.3 Clinician responsibilities

a) ED staff must be aware of ethical issues involved in forensic cases such as breaching confidentiality.

b) Formal processes must be adhered to when furnishing reports to police or legal authorities.

c) Early contact should be made with forensic services. Emergency physicians and trainees should work with specialist forensic practitioners to achieve the best possible patient outcomes.

d) Patients may present to the ED stating they have been the victim of interpersonal violence or with an unrelated complaint but then disclose that something has happened to them. Clinicians should explore whether the patient wishes to report to police, and/or access specialised counselling.

e) Emergency physicians and trainees should be aware of mandatory reporting requirements in their jurisdiction for adults and children.

f) Chaperones should be present for intimate examinations, unless explicitly declined by the patient. When an intimate examination is conducted without a chaperone, the patient's reason for declining should be documented.

g) Measures to reduce the risk of DNA contamination should be undertaken and include, conducting the examination in a dedicated forensic medical examination suite. Examples of measures clinicians should take to avoid DNA contamination include:

- the use of evidence kits or single use equipment;
- cleaning of surfaces within the room with 0.5% sodium hypochlorite (bleach) solutions (note this can corrode and damage items), or alcohol-based wipes (refer to local cleaning policies);
- changing gloves between each step of the forensic examination;
- appropriate adherence to evidence collection and packaging techniques as per local guidelines.

5.4 Informed consent and legal obligations

a) Valid informed consent must be obtained from the patient (or their proxy decision-maker) and documented prior to any examination and/or collection of samples for forensic testing.

b) Care must be taken to establish capacity in scenarios involving children, patients with mental health problems or intellectual disability, intoxication, illness, or serious injury.

c) It is important that the patient understands that information and samples gathered during a forensic medical examination may be made available to police and the courts.

d) Police may on occasion present a court order, warrant or similar document authorising a forensic examination or collection of specimens. Alternatively, there may be legislative authorisation for a procedure, for example, collection of body fluid specimens under road safety laws. In these scenarios, the legal requirement applies to the patient and not the doctor. Emergency physicians and trainees must still establish valid informed consent from the patient prior to conducting a forensic procedure.

5.5 Documentation

a) Contemporaneous documentation of patient history and all injuries should be made available to assist with potential judicial process.

b) Templates and proformas should be used, where available, and details regarding names / dates / times of consultations should be recorded. It is vital to record the history of incident in the patient's words and include a description of the patient's symptoms and signs.

c) Injuries should be documented through a comprehensive and accurate description of what is seen, with the use of body charts and diagrams where available.

d) At times, photography may be an appropriate adjunct to injury documentation. Photography of injuries in intimate body areas (breasts and anogenital regions) should not be performed without prior consultation with a forensic service and in accordance with local/jurisdictional guidelines.

e) Valid informed consent must be provided before photographs are taken and the images must be stored in a manner that maintains chain of custody and privacy requirements.

5.6 Sexual violence

a) Consider the collection of clothing, sanitary products, mouth rinses, and/or vaginal and anal swabs for blood, semen and saliva, depending on the circumstances of the case. Avoid altering areas of interest such as defects or stains in clothing (cut around the defect when removing clothing in trauma assessments). Clinicans should have a low threshold for contacting a forensic medical service for advice on evidence preservation and collection in the ED.

b) Baseline testing for sexually transmissible infections should be considered for all cases of sexual violence. The patient's immunisation status should be determined and an assessment made regarding the need for post-exposure prophylaxis and follow-up. Advice can be sought from local infectious diseases units.

c) Emergency contraception should be made available to reduce the risk of pregnancy.

d) EDs should have procedures in place for referral of victim-survivors of sexual assault to appropriate services to ensure trauma informed care.

e) Sensitivity and awareness are needed regarding forensic genital examinations for trans and gender diverse victim-survivors of sexual assault.

5.7 Identifying and responding to disclosure

a) Emergency physicians should act in accordance with professional and ethical obligations to be alert to the signs and symptoms of intimate partner violence and other forms of family violence and to consider whether a forensic examination may be required.

b) ACEM policy P39 – *Family and domestic violence and abuse* should be read in conjunction with this policy.

6. Related documents

This policy should be read in conjunction with the following documents:

- ACEM P39 Family and domestic violence and abuse
- ACEM P35 Policy on Child at Risk
- ACEM G125 Guidelines on Pathology Testing in the ED
- Australasian Health Facility Guidelines. Part B-Health Facility briefing and planning. HPU 300 Emergency Unit. Sydney: AIHA; 2016

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