



## Department of Health

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Executive Deputy Commissioner

May 7, 2021

DAL 21-03  
Sexual Offense Evidence Collected by Hospitals

Dear Hospital Chief Executive Officer:

**This guidance supersedes guidance issued April 16, 2018 (DAL 18-07)** to inform hospitals about a statutory revision regarding sexual offense evidence collected by hospitals.

As previously noted, pursuant to Section 2805-i of the Public Health Law (PHL), sexual offense evidence collected by hospitals must be kept in a locked, separate and secure area for twenty years from the date of collection. When the 2018 guidance was issued, the statute further directed the State to provide a location for long-term storage that would begin accepting evidence transfers from hospitals by April 1, 2021.

However, please be advised that a recent amendment to PHL Section 2805-i of the Public Health Law extended the date by which the State must accept the transfer of sexual offense evidence from hospitals, from April 1, 2021, to September 30, 2022. The FY 2022 State budget included funding to renovate a State facility that will be the site for the 20-year storage of evidence and will be operated by the Office of Victim Services.

The guidance issued previously is available at this link:  
[https://health.ny.gov/professionals/hospital\\_administrator/letters/2018/2018-04-16\\_dhdtc\\_dal\\_18-07\\_sexual\\_assault.htm](https://health.ny.gov/professionals/hospital_administrator/letters/2018/2018-04-16_dhdtc_dal_18-07_sexual_assault.htm)

Hospitals can continue to contract with another entity to provide long term storage of sexual offense evidence, pursuant to PHL Section 2805-i(2)(d). Before entering into such an agreement for storage, hospitals must develop policies and procedures that determine how security, appropriate storage, and chain of custody of the evidence will be maintained. Please review the NYS Department of Health regulation, 10 NYCRR section 400.4, for information regarding contract provisions before entering into any contractual agreement.

For more information on how to properly store sexual offense evidence, please refer to the “National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach” here:  
<https://www.ojp.gov/pdffiles1/nij/250384.pdf>.

### **Sexual Offense Evidence Storage Survey**

To make recommendations concerning the preparation of the storage facility, the Department is requesting that hospitals collaborate by completing a new, one-time survey that will be activated on May 10, 2021, in the HERDS application on the Department’s Health Commerce System (HCS) entitled “Sexual Offense Evidence Storage Survey.” Please collaborate with your Director of Emergency Department Services and Sexual Assault Forensic

Examiner (SAFE) Program Coordinator, if any, to provide thorough and accurate information on the hospital facility's storage of Sexual Offense Evidence Collection Kits, Drug Facilitated Sexual Assault Evidence Collection Kits, and additional types of sexual offense evidence (clothing, condoms, blankets, etc.). The survey will be due Tuesday, June 1, 2021, at 2 pm.

Thank you for your collaboration on this important matter. If you have any questions, please email either [rcprpt@health.ny.gov](mailto:rcprpt@health.ny.gov) or [hospinfo@health.ny.gov](mailto:hospinfo@health.ny.gov). We look forward to working with you and appreciate your urgent attention to this matter.

Sincerely,

Stephanie Shulman, DrPH, MS  
Acting Director, Division of Hospitals  
and Diagnostic & Treatment Centers

## Sexual Offense Evidence Storage Survey

Pursuant to Section 2805-i of the Public Health Law (PHL), sexual offense evidence collected by hospitals must be kept in a locked, separate and secure area for twenty years from the date of collection. Hospitals can contract with another entity to provide long term storage of sexual offense evidence. Before entering into such an agreement, hospitals must develop policies and procedures that determine how security, appropriate storage and chain of custody of the evidence will be maintained.

Previously, the statute had further directed the State to provide a location for long-term storage that would begin accepting evidence transfers from hospitals by April 1, 2021. However, please be advised that recent amendments to PHL Section 2805-i of the Public Health Law extended the date by which the State must accept the transfer of sexual offense evidence from hospitals, from April 1, 2021, to September 30, 2022.

The FY 2022 State budget included funding to renovate a State facility that will be the site for the 20-year storage of evidence and will be operated by the Office of Victim Services.

The information provided in this survey will be used to make recommendations concerning the preparation of the storage facility.

Please collaborate with your Director of Emergency Department Services and Sexual Assault Forensic Examiner (SAFE) Program Coordinator, if any, to provide thorough and accurate information on the hospital facility's storage of sexual offense evidence, also referred to as sexual assault evidence. Sexual offense evidence must be collected and stored utilizing the New York State Division of Criminal Justice Services "Sexual Offense Evidence Collection Kit" and the "Drug Facilitated Sexual Assault Evidence Collection Kit." Any additional sexual offense evidence (clothing, condoms, blankets, etc.) must be collected, stored, and labeled in bags. Please include all sexual offense evidence that the hospital is responsible for, within the hospital facility or outside of the hospital at a contracted entity.

**Your response to this survey is due at 2 pm on June 1, 2021.**

If you have any questions regarding the survey, please contact:

- For technical assistance with access to, use of the HERDS application, or HCS accounts, please email: [hospinfo@health.ny.gov](mailto:hospinfo@health.ny.gov)
- For assistance with the subject matter/content of the "Sexual Offense Evidence Collection Kit Survey" questions, please email: [rcprpt@health.ny.gov](mailto:rcprpt@health.ny.gov)

**Please provide the following information based on what evidence is currently in storage:**

1. How many used **Sexual Offense Evidence Collection Kits** are you responsible for in storage within and/or outside of the hospital including other locations such as off-site hospital space, hospital extensions clinics, space operated by agencies that hospitals have contracted with to provide short or long term storage of sexual offense evidence. *Enter Number:*
  - a. Of those, how many are:
    - In a refrigerator: *Enter Number*
    - In a freezer: *Enter Number*
    - In a room temperature and humidity-controlled environment: *Enter Number*

- In a room temperature environment: *Enter Number*
  - Please describe other types of storage environments here: *Enter text*
  - Enter total number of kits stored in these other types of storage environments: *Enter Number*
- b. Of those, how many are pre-2008 (with liquid blood tubes): *Enter Number*
2. How many used **Drug Facilitated Sexual Assault Evidence Collection Kits** are you responsible for in storage within and/or outside of the hospital including other locations such as off-site hospital space, hospital extensions clinics, space operated by agencies that hospitals have contracted with to provide short or long term storage of sexual offense evidence. *Enter Number*:
- a. Of those, how many are:
- In a refrigerator: *Enter Number*
  - In a freezer: *Enter Number*
  - In a room temperature and humidity-controlled environment: *Enter Number*
  - In a room temperature environment: *Enter Number*
  - Other type of storage, please describe: *Enter Text*
  - Other storage (enter number): *Enter Number*
3. How many **other types of sexual offense evidence** are you responsible for in storage within and/or outside of the hospital including other locations such as off-site hospital space, hospital extensions clinics, space operated by agencies that hospitals have contracted with to provide short or long term storage of sexual offense evidence. Clothing: *Enter Number*  
Condoms: *Enter Number*  
Bedding: *Enter Number*  
Other: *Enter Number* (please specify): *Enter Text*
- a. How are these evidence items packaged? (select all that apply)
- Brown paper bags: *Check Box*
  - Cardboard boxes: *Check Box*
  - Other: *Check Box* (please specify): *Enter Text*
- b. How many are:
- In a refrigerator? *Enter Number*
  - In a freezer? *Enter Number*
  - In a room temperature and humidity-controlled environment: *Enter Number*
  - In a room temperature environment: *Enter Number*
  - Other storage environment, please describe: *Enter Text*
  - Other Storage Environment (enter number): *Enter Number*
4. If electronic records (other than medical records) were used to inventory and track the sexual offense evidence, please SELECT the name of the software or system utilized for such record below (select all that apply):

(check box choices based on answers from prior survey):

- MS Word
- EPIC
- Meditech
- GRM Document Management Software
- Sunrise ED
- EDIMS LLC Analytics
- PYXIS
- MS EXCEL
- On Base Content Management Software
- Allscripts
- MedHost EDIS
- McKesson One
- EVA software solutions
- e-Law enforcement OnBase
- I-Cloud/ Haiku software
- HP IR Photography
- QCPR
- Omnicell
- CPSI Healthcare Management Software
- CD/media cards/ thumb drive

If other type of software or platform is used that is not listed above, please enter name here:

5. If you have any additional comments you'd like to make, pertaining to this survey, please enter them here: