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Standard Guiding Principles for the Medical Forensic Examination

*Forensic Nursing Subcommittee
Medicine Scientific Area Committee
Organization of Scientific Area Committees (OSAC) for Forensic Science*





Draft OSAC Proposed Standard

OSAC 2023-N-0014 Standard Guiding Principles for the Medical Forensic Examination

Prepared by
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1 **Foreword**

2 This document provides standard guiding principles that shall govern the conduct of medical
3 forensic examinations by trained clinicians. These foundational principles assure forensic patient
4 care is patient centered and trauma informed while protecting the clinician’s safety and the
5 integrity of evidence.
6

7 This document should be utilized in conjunction with any requirement by state or federal laws,
8 licensing boards, local regulations, and by the clinician’s healthcare organization. These guiding
9 principles should inform or augment policies relating to the conduct of the medical forensic
10 examination.
11

12 All hyperlinks and web addresses shown in this document are current as of the publication date of
13 this standard.
14

15 This document has been drafted by the Forensic Nursing Subcommittee of the Organization of
16 Scientific Area Committees (OSAC) for Forensic Science through a consensus process.
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53 **1. Scope**

54 This document provides standard guiding principles for the medical forensic examination of
55 patients (victims and suspects) by a trained medical forensic examiner following suspected or
56 disclosed violence. These principles shall set the foundation for medical forensic services provided
57 to patients that assures care is patient centered and trauma informed while protecting the clinician’s
58 safety and the integrity of evidence. The absence of law enforcement involvement does not nullify
59 the clinician’s duty to provide medical forensic patient care that abides to these standards.
60

61 **2. Normative References**

- 62 a. U.S. Department of Justice. *A National Protocol for Sexual Assault Medical Forensic*
63 *Examinations: Adults/Adolescents (2nd Ed.)*. U.S. Department of Justice, Office on Violence
64 Against Women; 2013.
65

66 **3. Terms and Definitions**

67
68 For purposes of this document, the following definitions and acronyms apply.

69 **3.1 Autonomy:** The ability to make your own decisions without being controlled by
70 anyone else (Cambridge University Press, n.d.).
71

72 **3.2 Cognitive Bias:** A set of influences that may affect the reliability and validity of one’s
73 observations and conclusions (OSAC Lexicon).
74

75 **3.3 Competent:** Having the skills or knowledge to do something well enough to meet a basic
76 standard (Cambridge University Press, n.d.)
77

3.4 Context: Spatial and temporal associations of evidence (OSAC Lexicon).

78 **3.5 Equity:** The situation in which everyone is treated fairly according to their needs and no
79 group of people is given special treatment (Cambridge University Press, n.d.)

80 **3.6 Evidence integrity:** Ensuring the physical security, completeness, and accuracy of
81 evidence is maintained from the time it is collected until its final disposition to prevent any
82 claims of mishandling or tampering and guarantee its acceptance in a court of law (National
83 Institute of Justice, 2020).

84 **3.7 Medical forensic examiner:** A healthcare provider who applies medical knowledge and
85 practices to the investigation of the medicolegal aspects of death, injury, neglect, or behavior
86 (adapted from National Commission on Forensic Sciences, n.d.).

87 **3.8 Medical forensic examination:** An examination of a patient by a medical forensic
88 examiner following suspected or disclosed violence. The examination includes gathering
89 information from the patient for the medical forensic history; an examination; coordinating
90 treatment of injuries, documentation of biological and physical findings, and collection of
91 evidence from the patient; documentation of findings; information, treatment, and referrals for
92 STIs, pregnancy, suicidal ideation, alcohol and substance abuse, and other nonacute medical
93 concerns; and follow-up as needed to provide Standard Guiding Principles for the Medical
94 Forensic Examination additional healing, treatment, or collection of evidence (adapted from

95 normative reference a).

96

97 **3.9 Reliability:** Extent to which an experiment, test, or measuring procedure yields the same
98 results on repeated trials (OSAC Lexicon).

99

100 **3.10 Scope of practice:** A set of activities and procedures that a healthcare professional is
101 authorized to perform based on their education, training, and license. It is defined by each
102 profession's regulatory board or licensing agency and varies by state and country (American
103 Nurses Association, 2021).

104

105 **3.11 Transparency:** The quality of being done in an open way without secrets (Cambridge
106 University Press, n.d.).

107

108 **3.12 Validity:** Extent to which a conclusion, inference or proposition is accurate (OSAC
109 Lexicon).

110

111 4. Requirements

112

113 The purpose of a medical forensic examination is to address patients' healthcare needs and
114 collect evidence when appropriate for potential use within the criminal justice system (DOJ,
115 2013). The medical forensic examiner endeavors to locate, document, collect and preserve items
116 of potential evidentiary value that are identifiable at the time of exam, while providing medical
117 care to support the recovery of the patient. Each case is unique and requires medical personnel
118 to continuously evaluate how to proceed with conducting a medical forensic examination in a
119 manner that is safe for both patient and examiner and best preserves the evidence and its context.
120 Thus, all decisions made by a medical forensic examiner before, during, and after a medical
121 forensic exam should consider the following guiding principles:

122

- 123 • Trauma-informed Approach to Care
- 124 • Patient-centered Approach to Care
- 125 • Medical Safety and Well-being of the Patient
- 126 • Equity
- 127 • Patient Autonomy and Privacy
- 128 • Personnel Safety
- 129 • Scope of Practice
- 130 • Competency and Currency of Practice
- 131 • Scientific Reliability and Validity
- 132 • Preserving Context
- 133 • Maintaining Evidence Integrity
- 134 • Transparency
- 135 • Managing Cognitive Bias

136

137 Though all the guiding principles listed in this document are important, some circumstances
138 could require a medical forensic examiner to give greater weight to one principle over another.
139 A decision to deviate from a guiding principle shall be documented and explained.

140

141

142

143 **4.1 Trauma-informed Approach to Care**

144

145 The program or organization providing the medical forensic examination shall use a trauma-
146 informed approach to care. Such an organization “realizes the widespread impact of trauma
147 and understands potential paths for recovery, recognizes the signs and symptoms of trauma in
148 clients, families, staff, and others involved with the system; and responds by fully integrating
149 knowledge about trauma into policies, procedures, and practices, and seeks to actively resist
150 re-traumatization” (SAMHSA, 2014, p.9).

151

152 **4.2 Patient-centered Approach to Care**

153

154 The medical forensic examiner conducting the medical forensic examination shall administer
155 care using a patient-centered approach. This approach includes: 1) a systematic focus on the
156 needs and concerns of the patient; 2) ensuring the compassionate and sensitive delivery of
157 services in a nonjudgmental manner; and 3) minimization of retraumatization associated with
158 the criminal justice process. A victim advocate and/or related service provider shall be offered
159 to the patient (OVC, n.d.).

160

161 **4.3 Medical Safety and Well-being of the Patient**

162

163 Assuring the medical safety and well-being of the patient distinguishes the responsibilities of
164 the medical forensic examiner from crime scene investigators. The medical safety of the patient
165 shall take priority over the conduct of the forensic medical examination. Additionally, the
166 examiner shall support the patient’s mental and physical well-being during the medical forensic
167 examination process.

168

169 **4.4 Equity**

170

171 Examiners shall provide equitable access to culturally competent medical forensic examinations
172 regardless of the patient’s race, ethnicity, age, ability, sex, gender identity or expression, sexual
173 orientation, nationality, socioeconomic status, and geographical location.

174

175 **4.5 Patient Autonomy and Privacy**

176

177 To protect the patient’s rights and the interests of the facility in which the examination is being
178 conducted, consent or assent (in cases where the patient legally requires a surrogate decision-
179 maker) shall be obtained from the patient prior to conducting the
180 206 medical forensic examination.

181

182 **4.6 Personal Safety**

183

184 Conducting medical forensic examinations, even in the hospital setting, can present a wide
185 range of risk to personnel, including physical, biological, chemical, and situational hazards.
186 Medical forensic examiners shall not be exposed to an unreasonable level of risk to personal
187 safety and shall be provided with the equipment and training necessary to mitigate risks, such
188 as personal protective equipment.

189 **4.7 Scope of Practice**

190
191 Medical forensic examiners shall conduct the medical forensic exam within their scope of
192 practice established by their profession and licensing body.

194 **4.8 Competency and Currency of Practice**

195
196 Medical forensic examiners shall maintain competency and currency of practice through
197 initial didactic and clinical training, followed by ongoing continuing education.

199 **4.9 Scientific Reliability and Validity**

200
201 Medical forensic examiners shall use scientifically reliable and valid methods and practices
202 based on best practices, peer-reviewed studies, and/or validated techniques. When applicable,
203 methods, practices and analytical procedures published in the OSAC Registry shall be
204 employed.

206 **4.10 Preserving Context**

207
208 Medical forensic examiners shall document the medical forensic examination in such a way
209 that it preserves the context of the evidence to ensure others can later understand what, where,
210 how, and in what condition evidence was found and how it pertains to the patient's history.

212 **4.11 Maintaining Evidence Integrity**

213
214 Medical forensic examiners shall take appropriate steps to maintain evidence integrity by
215 preventing contamination, tampering, alteration, or loss of evidence. Procedures and
216 documents shall be utilized to account for the integrity and possession of evidence by tracking
217 its handling and storage from its point of collection to its final disposition.

219 **4.12 Transparency**

220
221 The medical forensic examiner shall provide documentation and testimony about the medical
222 forensic examination that clearly represents the patient's presentation, the examiner's and
223 patient's actions during the examination, and any other information the examiner identifies as
224 pertinent at the time of examination. If an action by a medical forensic examiner intentionally
225 deviates from, or sets aside, one of the principles, the circumstances and justification shall be
226 fully documented.

228 **4.13 Managing Cognitive Bias**

229
230 Cognitive bias refers to the class of effects by which an individual's preexisting beliefs,
231 expectations, motives, and situational context may influence their collection, perception, or
232 interpretation of information, or their resulting judgments, decisions, or confidence (Spellman
233 et al., 2021). Medical forensic examiners are uniquely positioned at the intersection of
234 healthcare and scientific investigations. Examiners shall identify, document, and collect

235 statements and other potential evidence as objectively as possible. Medical forensic examiners
236 shall take steps to mitigate effects of cognitive biases on their work.

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Annex

Bibliography

This is not meant to be an all-inclusive list as the group recognizes other publications on this subject may exist. At the time this document was drafted, these were some of the publications available for reference. Additionally, any mention of a particular software tool or vendor as part of this bibliography is purely incidental, and any inclusion does not imply endorsement by the authors of this document.

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