

# Photo Documentation and the Medical-Forensic Examination

---



Written by Valerie Sievers & Diana Faugno

## If There is No Picture, Was There Really Injury?

**ANYONE WHO REMEMBERS** watching the movie *My Cousin Vinny* (Lynn 1992) knows how a photograph might provide definitive findings during a trial. In the film, an inexperienced attorney, Vincent “Vinny” Gambini travels to a small southern town with his fiancée, Mona Lisa Vito, to represent his cousin in a murder case. Mona Lisa’s continuous picture taking of the surroundings of the community with an inexpensive pocket camera causes frustration throughout the film, but eventually produces a photo that holds the key to the murder case.

Recently, on an organization listserv, several questions were posted regarding the utility and necessity of photo-documentation as part of a medical forensic exam for patients who have experienced violence, specifically photo-documentation of genital anatomy and genital injuries. Rationale for omitting or limiting genital photos

included: “I didn’t see any injury when I observed the patient’s genital region,” “The victim advocate suggested photos of the genital region would be re-traumatizing,” and “I’m not familiar with the camera system so I don’t use it.”

The use of photography in health care is referred to in the literature by several terms, including clinical photography, medical photography, medical-legal photography, and forensic photo-documentation. Photo-documentation in health care has been widely used in a variety of clinical practice areas including dermatology, wound and burn care, surgery, gynecology, pediatrics, emergency medicine, clinical education, and research. Reasons for using a camera to address the health-care needs of patients seen in an acute care setting like an emergency department include:

1. Record and document injuries and, potentially, evidence that cannot be preserved indefinitely or may be altered by treatment or repair
2. Provide a future aid to memory
3. Document features and details that may not be important for purposes of care and treatment (e.g., condition of clothing worn by the patient)
4. Provide documentation of injuries or conditions, and to record appearance both before and after medical interventions
5. Record the condition of evidence or injuries at the time of the examination
6. Document normal findings or absence of injuries
7. Document wound-healing progress in follow-up examinations
8. Provide a visual supplement to the medical record
9. Aid in teaching, peer review, and quality improvement
10. Minimize bias

11. Digital images can be stored indefinitely

12. Images can be reviewed by forensic professionals prior to court proceedings (Besant-Matthews & Smock 2001, Primeau & Sheridan 2013)

In the last several decades, photo-documentation in the care of patients affected by sexual abuse and assault has become standard practice and utilized by forensic-nurse examiners and child-abuse pediatricians to document both body surface and anogenital injuries.

The practice of forensic nursing involves numerous areas of specialization. The key to excellent practice in these varied areas is proper and complete documentation. According to Speck & Faugno (2013), complete and accurate identification of anatomy, of injury, as well as documentation of genital injuries after sexual assault are three of the most important forensic functions of the forensic nurse examiner in sexual assault care.

When the SANE/forensic-nurse examiner uses photography consistently in the evaluation of patients affected by violence—for example, taking photographs of all patients, whether injured or normal—credibility of the documentation improves and challenges of bias (e.g., denial of important information to the criminal justice processes) are minimized. However, if the forensic-nurse examiner determines that there is no injury or has a policy to not photograph normal genitalia, or deletes “bad” photographs, the credibility of the forensic nurse and the documentation is undermined and the forensic nurse examiner and the medical record is open to challenges in criminal justice proceedings (Ernst et al. 2011).

Whenever documentation of physical characteristics, a pattern, or other physical evidence is required, photography should be used to supplement and enhance other forms of documentation (Zercie & Penders 2013).

Photographs are demonstrative evidence. Demonstrative evidence serves to illustrate,

demonstrate, or help to explain oral testimony. Photographs are not likely to be admitted as evidence if there is no reference to images in the medical-forensic exam record, and they may not be admitted as evidence if the medical forensic exam record does not include narrative and diagrammatic documentation of specific injuries. The photographs or digital images and the medical-forensic record supplement and corroborate each other. Photography is a tool that can serve to amplify nursing documentation (Pasqualone 2011).

There are currently several photo-documentation protocols available for use in the clinical arena which focus on the comprehensive process of photography of body surface injuries, injuries in older adults, or injuries associated with non-fatal strangulation (Faugno et al. 2020; Bloemen et al. (n.d.), SDFI Telemedicine 2020). At present, there is not a standardized protocol that outlines the detailed anogenital photo-documentation process in a patient who has been sexually assaulted or abused. The authors intend to propose a standardized approach to anogenital photography as part of the medical forensic exam for the adult or adolescent patient who has been sexually assaulted or abused and develop a photographic protocol for forensic health-care professionals.

Following a trauma-centered approach to the patient as part of the medical forensic exam will include obtaining both written and verbal consents to photograph, ensuring patient privacy and dignity, and communicating about the exam and photographic process. Appropriate patient identification should include using a label or book-end cards with the patient's identifying demographic information at the beginning and end of the series of photographs. The next steps in comprehensive anogenital photo-documentation should include:

1) An "orientation" photograph of the vulva that depicts the entire region from the mons to the anal area. This photo should be done before any cleaning, swabbing or manipulation of the genital tissue.

2) Sequential photos of the vulva in two to three sections. This might also include several images at varying levels of magnification or distance. Photos should include both labia majora and minora, and the crease between the majora and minora.

3) A focused photo of the region of the posterior fourchette and fossa navicularis (in adolescents). This is the area where subtle injury is often seen, and it should be *photographed prior to rigorous separation and traction techniques, application of a cell stain as Toluidine Blue, or the insertion of a speculum.*

4) Applying labial separation and traction, a photo of the clitoris and clitoral hood.

5) A photo of the urethra and periurethral area.

6) A photo of the hymen tissue. In the **child-bearing patient with estrogenized hymen tissue**, an obstetric swab or air-filled urinary catheter balloon should be used to evaluate the circumference of the hymen tissue. This step is typically done **after** the collection of any specimens.

7) A photo of the fossa navicularis.

8) A photo of the posterior fourchette.

9) A photo of the anus and perianal area.

10) During speculum insertion, photos should be taken of the vaginal walls bilaterally, and the cervix and cervical os.

Photo-documentation of genital injury taken with a colposcope and attached digital camera should include several images at varying levels of magnification, while a digital camera and macro lens can be used to capture images at mid-distance, close-up, and extreme close-up photos if needed.

Frequently, novice forensic clinicians will ask about the specific number or quantity of digital images that should be taken as part of the sexual assault medical forensic exam. A good rule of thumb is to take as many pictures as needed to best represent anatomic findings, as well as any findings of injury. This might mean that the forensic nurse examiner is taking 12–30

photos or more, depending on patient presentation. Another good rule of thumb is to never delete a photo, even if it is out of focus or pixelated. Photographs should not be manipulated, and if photographic software is used to annotate or describe an image, the original image should be saved, and for each annotated image there should be an embedded record of who captured the photograph and annotated the image.

The patient who is affected by violence always has the option to decline having photos taken of body-surface injury or anogenital findings. An important component of the responsibilities of the forensic nurse examiner is not only to offer that option to patients as part of a trauma-informed response, but also to explain to the patient how the photos will be used and how they might be helpful for diagnosis and potentially in the criminal-justice arena. Since anogenital photos can be perceived to be graphic or inflammatory, and there is typically no need for juries to review anogenital photos, the forensic nurse can review photos prior to testimony and annotate a black and white diagram of male or female genitalia while objectively describing the anatomy and identified injury or normal findings. This option should be reviewed in advance with the attorney.

Quality review of all case photographs and reports is important for learning and improving patient care. Ernst & Speck (2011) describe seven attributes to consider when evaluating the quality and consistency of a photograph. These attributes are highlighted in the chart below.

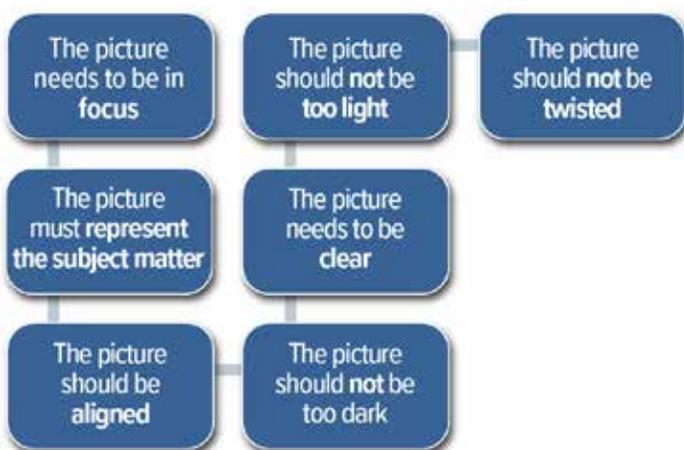


Photo-documentation is an accepted standard of care and essential skill for forensic nurses responding to patients affected by trauma and violence. Forensic nurses should anticipate exposure to evidence-based education that includes the essentials of photo-documentation. The SANE Program Development and Operational Guide (2016) suggests that photo-documentation creates a mechanism for peer review of exam findings. It is the only way that a nurse's evaluation of an injury can be peer reviewed, which is an essential part of SANE/forensic nurse examiner practice. Clinical policies for photo-documentation within forensic-nursing practice programs should include a standardized approach to anogenital photography, expert review of photos to support quality improvement, and a detailed process for storage and release of digital images.

In summary, photo-documentation and imaging equipment has continued to evolve. Photographic images can be invaluable and will continue to impact forensic nursing practice. Keep it simple, know your equipment, follow your procedures and clinical guidelines, and remember that accurate photo-documentation is a standard of forensic care. The use of a comprehensive photography protocol during the medical forensic exam will positively affect health-care services provided to those affected by crime and violence while serving the interests of justice.

### Case Example

You are called to testify in a domestic violence/sexual assault case. As the forensic nurse examiner, you saw the patient two years ago and recall that she had sustained multiple body-surface and genital injuries. In addition to providing the medical-forensic exam, you took photographs of her various injuries.

While on the stand, you are shown the photos and are asked to describe the anatomy and the various injuries to the jury.

It is easy for the jurors to see the injuries and consider the demonstrative evidence, based on your description of the injuries, as well as your ability to identify the specific injuries on the photograph that is displayed for

the jury to see.

Outcome: Guilty on three counts. Sentence, 12 years.

## About the Authors

**Valerie Sievers** (MSN, RN, CNS, SANE-A, SANE-P, DF-AFN) is a Forensic Clinical Nurse Specialist with more than 35 years of health care experience as a registered nurse, advanced-practice nurse, educator, and consultant. She is currently owner of MedLaw Consultants, LLC, editor of Forensic Nursing Exchange, and serves as a board member of the Academy of Forensic Nursing.

**Diana K. Faugno** (MSN, RN, CPN, SANE-A, SANE-P, FAFS, DF-IAFN, DF-AFN) is a Founding Board Director for End Violence Against Women International (EVAWI), is the current president of the Academy of Forensic Nurses, as well as a retired-fellow in the American Academy of Forensic Science and a Distinguished Fellow in the Academy of Forensic Nursing. She now works for Life Safe as a forensic nurse in Marietta, Georgia.

## References

Besant-Matthews, P., and W. S. Smock. 2001. Forensic photography in the emergency department. In J. S. Olshaker, M. C. Jackson & W. S. Smock (Eds.), *Forensic Emergency Medicine* pp. 257–282. Philadelphia: Lippincott Williams & Wilkins.

Bloemen, E. M., T. Rosen, J. A. Cline, V. LoFaso, S. Clark, M. R. Mulcare, M. E. Stern, R. Mysliwec, N. Flomenbaum, M. S. Lachs, and S. Hargarten. (n.d.) Comprehensive photography protocol general & specific guidelines for photographing injuries in older adults. University Hospital of Columbia & Cornell. Retrieved: <http://nyceac.com/wpcontent/uploads/2012/02/Photography-Protocol.pdf>

Ernst, E., P. M. Speck, and J. J. Fitzpatrick. 2011. Evaluation of image quality of digital photo documentation of female genital injuries following sexual assault. *Journal of Forensic Nursing*. 7:182–189.

Ernst, E., P. Speck, and J. J. Fitzpatrick. 2011. Usefulness: forensic photo documentation after sexual assault. *Advanced Emergency Nursing Journal*. 33(1):29–38.

Faugno, D., D. R. Bowman, V. Sievers, T. Ingram-Jones, C. Baldwin-Johnson, B. Rodarte, and B. Smock. 2020. Pediatric non-fatal strangulation photo-documentation protocol. Boulder City, NV: SDFI-TeleMedicine, LLC. Retrieved: [https://www.sdfi.com/downloads/SDFI\\_Pediatric\\_Non-Fatal\\_Strangulation\\_Protocol.pdf](https://www.sdfi.com/downloads/SDFI_Pediatric_Non-Fatal_Strangulation_Protocol.pdf)

Lynn, J. (Director). 1992. *My Cousin Vinny* [Film]. 20th Century Fox.

Office for Victims of Crime. 2016. SANE program development & operation guide. Retrieved <https://www.ovcttac.gov/saneguide/identifying-essential-components-of-a-sane-program/photo-documentation/>

Pasqualone, G. A. 2011. Forensic photography. In V. A. Lynch and J. Barber Duval (Eds.) *Forensic nursing science* (2nd ed.). pp 61–79. St. Louis: Elsevier Mosby.

Primeau, A., and D. J. Sheridan. 2013. Evidence: Forensic nursing care in the emergency & acute care departments. In R. Constantino, P. A. Crane, S. E. Young, (Eds.) *Forensic nursing: Evidence-based principles and practice*. pp 320–321. Philadelphia: F.A. Davis.

SDFI Telemedicine. 2020. SDFI forensic photography photo-documentation protocol. Boulder City, NV: SDFI-TeleMedicine, LLC. Retrieved from [www.sdfi.com](http://www.sdfi.com)

Speck, P. M., and D. F. Faugno. 2013. Interpersonal violence: Intimate partner child and elder violence and the three levels of prevention. In R. E. Constantino, P. A. Crane, and S. E. Young (Eds.) *Forensic nursing: Evidence based principles and practice*. pp 117–135. Philadelphia: F.A. Davis Company.

Zercie, K. B., and P. Penders. 2013. Photography in forensic nursing. In R. M. Hammer, B. Moynihan & E. M. Pagliaro (Eds.) *Forensic nursing: A handbook for practice*. pp 483–489. Burlington, MA: Jones & Bartlett.