

Lawsuits claim South Carolina kids underwent unnecessary genital exams during abuse investigations

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Warning: Some readers may find graphic details in this article to be offensive or disturbing.

Three ongoing federal lawsuits filed in South Carolina accuse the state of forcing boys and girls to undergo traumatic genital exams during [child abuse](#) investigations, even when no allegations of sexual abuse have been raised.

One 14-year-old plaintiff—who goes by "Jane Doe" to protect her privacy—was placed into foster care in 2021 after she disclosed to a social services caseworker that her mother had spanked her with a belt and a tree branch.

"I never, ever mentioned sexual abuse," said Jane, who was 12 when the South Carolina Department of Social Services launched its investigation and scheduled her to undergo a forensic medical exam at a hospital in Columbia. "I felt like I was kind of getting legally abused by someone that had the permission to do it," she told KFF Health News during an interview at her attorney's office.

During the exam, Jane was instructed to undress and open her legs in front of medical providers she'd never met before who took photos of her genital area, touched her breasts, and placed "fingers and/or instruments" in her vagina, according to her lawsuit.

"I felt like I had no right to say no," she told KFF Health News. "Something inside me told me that wasn't what they were supposed to do."

Connelly-Anne Ragley, a spokesperson for the department, would not discuss the ongoing lawsuits. Court filings show the agency denies the allegations and argues that its employees are protected by "qualified immunity," a type of court-created rule that often shields law enforcement officers and government officials from being sued. The department also asserts that forensic exams are "standard procedure" during abuse and neglect cases.

Investigating child abuse is notoriously complex. The investigations usually involve forensic interviews, which are typically recorded and involve a professional asking questions of a child to elicit information. And they sometimes include forensic full-body medical examinations that include a visual check of the child's private parts and are designed to be noninvasive, meaning medical tools that can break the skin or enter the body are not used.

Together, the interview and the exam are considered effective tools for gathering information and evidence from underage victims, who may be reluctant to describe or disclose how they've been hurt. Often, these interviews and exams are conducted at children's advocacy centers by social workers, doctors, and nurses who are specially trained to treat young patients with sensitivity and care—and learn to read between the lines.

Federal guidelines advise that the mere suspicion of child sexual abuse should be sufficient to trigger a forensic medical exam. Even so, there's a growing consensus in medicine that genital and pelvic exams can be embarrassing, uncomfortable, and even traumatic.

The South Carolina lawsuits—which involve children who live in different parts of the state and who were assigned to different social services caseworkers—aren't the first to raise red flags about the potentially harmful effects of forensic medical exams on children. Since the 1990s, [federal courts](#) from New York to California have ruled that government agencies violate children's and parents' civil rights when the exams are conducted without a court order or parental consent.

Claims that the exams are comparable to normal pediatric checkups are "garbage," said Donnie Cox, a civil rights attorney in Carlsbad, California.

"At the time they're happening, they're scary as hell and it really does traumatize children on top of the trauma of being removed from their homes," said Cox, who has represented plaintiffs in similar lawsuits. "They're using these kids, basically, as pieces of evidence, and you can't do that."

In one South Carolina lawsuit, a 16-year-old girl claims she was subjected to painful vaginal exams against her will, even after she denied being sexually abused. She felt as if she was "being raped" during the forensic medical exam, her complaint asserts.

In another lawsuit, a couple living in the north-central part of the state allege their sons were subjected to genital and rectal exams, without the parents' knowledge or consent, more than a month after the children had been removed from their home in 2021. Their oldest son bruised his arms on playground equipment, they contend, instigating a child abuse investigation that resulted in all three boys temporarily moving in with their grandparents. Their youngest son was 6 months old at the time.

No one alleged during the investigation that the boys had been sexually abused, the lawsuit states, and yet the boys' "penises were held and touched by strangers" during the forensic exam and "fingers and/or instruments were placed in their anus," the lawsuit states.

The parents, whose names KFF Health News chose to withhold to protect the identity of their children, said their middle child suffers from night terrors because of the forensic examination. The oldest doesn't talk about what happened in the exam room, his mother said.

"Because we didn't know" what was going to happen, she said, "nobody could prepare him."

Attorneys Deborah and Robert Butcher of the Foster Care Abuse Law

Firm, who represent plaintiffs in all three South Carolina cases, have likened these forensic medical exams to "a fishing expedition." One lawsuit they filed against the Department of Social Services argues the agency is financially motivated to find evidence of any form of child abuse so that it qualifies for more money from the federal government.

"They're going to use every means possible to build a case," Robert Butcher said. He estimated "easily thousands" of children in South Carolina have been forced to get unnecessary exams during child abuse investigations in recent years—an approximation he made based on child protective services intake data.

Ragley, the Department of Social Services spokesperson, said the agency is required by state law to follow the South Carolina Child Abuse Response Protocol to determine when children should be referred for a forensic medical evaluation, which includes "a complete and thorough medical history from the child (if verbal) and caregivers and a head to toe physical examination, including the anogenital area."

In response to a Freedom of Information Act request filed by KFF Health News, the department said it couldn't estimate how many forensic medical exams are conducted on children of any age in South Carolina each year.

"That is not a question SCDSS can answer," Kaitlin Stout, the agency's manager of policy and practice standards with the Office of Strategic Planning and Innovation, replied via email. "We do not track or tally how many forensic exams are 'ordered/conducted' in open DSS cases and would have no way to know how many are conducted on children who are not involved with the agency."

But children's advocacy centers, where many of these exams are conducted, do keep track, and national data shows that about 1 in 4 child

abuse victims who are served by a children's advocacy center get a forensic medical exam, said Teresa Huizar, chief executive officer of the National Children's Alliance, which represents nearly 1,000 children's advocacy centers in the U.S.

These numbers don't capture all forensic medical exams, though, which may also be conducted in emergency departments and private clinics, Huizar said.

"I would say that they tend to be under-utilized," she said. "Often, children who would very much benefit from an exam don't get them because there simply isn't enough money in the public pool."

The cost of these exams varies by location. But in Georgia, for example, a pediatric anogenital exam with a colposcope, a medical tool used for magnification, is about \$280, exclusive of lab fees, according to the Georgia Crime Victims Compensation Program.

The right to refuse

Child welfare experts agree that forensic medical evaluations can be worthwhile outside the strict scope of child sexual abuse investigations.

South Carolina's Child Abuse Response Protocol indicates these exams should be conducted during investigations if children have witnessed violence or been exposed to an environment where drugs are used. An overt allegation or disclosure of child sexual abuse isn't considered a prerequisite for a forensic medical exam, said Thomas Knapp, executive director of the South Carolina Network of Children's Advocacy Centers.

"Children are often poly-victimized, so the head-to-toe exam is intended to ensure general well-being and pick up on evidence of any form of abuse," Knapp explained. "There are also some children where there

may be no disclosure, but we have digital images of their abuse. So, disclosure is not the only precipitating reason to request an exam."

Like Huizar, he agreed that forensic medical exams are under-utilized. In South Carolina, specifically, more than 4,500 children passed through a children's advocacy center with a report of sexual abuse in 2023. Only about half as many had received a forensic medical exam through mid-October, Knapp said.

State rules allow the Department of Social Services to request a forensic medical evaluation without consent from a child's parent or legal guardian. But the rules don't address the issue of obtaining the child's permission before proceeding with an exam. Knapp explained that children's advocacy centers allow patients to refuse. Federal Justice Department recommendations published in 2016 explicitly advise that children should be allowed to refuse participation in all or part of the process.

"If a patient refuses, we don't do it," said Anne-Marie Amies Oelschlager, a pediatric and adolescent gynecologist in Seattle. Genital exams for girls should be conducted only externally, in most cases, she said, even when sexual abuse is suspected. Internal exams and Pap smears to screen for cervical cancer aren't recommended until age 21, according to the American College of Obstetricians and Gynecologists.

"You really want to teach kids to say no," Oelschlager said. "This is an area that's private and if they say no, I've got to respect that."

One South Carolina lawsuit contends a 16-year-old girl was visibly "terrified and emotionally upset concerning the forensic medical exam" and that she told the medical examiner to stop. The medical examiner allegedly ignored the request.

Antoinette Laskey, a Utah pediatrician and member of the American Academy of Pediatrics' Council on Child Abuse and Neglect, had no knowledge of the South Carolina cases but explained that a child's wishes must be respected in the exam room, where the "inherent power differential" between a doctor and patient should be recognized.

"I would never force the issue," she said.

In 2022, Laskey co-authored a policy statement for the American Academy of Pediatrics acknowledging that children are "especially vulnerable" to being exploited in health care settings because of their age, development level, any disability, race, ethnicity, or English language proficiency. The paper cited flagrant examples of abuse inflicted by doctors like Larry Nassar, who pleaded guilty in 2017 to sexually abusing child gymnasts under the guise of legitimate medical care.

The policy statement explained that pediatricians are responsible for assessing children's health, including their genital health, from birth through puberty. To that end, the academy advises doctors to use sensitivity and care during anogenital exams. Children should be afforded privacy when disrobing, providers should wear gloves, and doctors should obtain permission from the child by discussing the need for the examination and what it will entail.

These exams "should never be traumatic," said Megan Lechner, formerly the chief operating officer of the International Association of Forensic Nurses, a group that trains nurses to conduct sexual assault exams on adults and children. More than anything else, they are designed "to tell the child they're OK," she said. "If they're traumatic, you're doing it wrong."

And yet courts have recognized the potentially traumatic impact of these

exams before. In 2019, an Alabama judge rejected a motion that would have required child victims who were raped and abused by adults to undergo court-ordered vaginal examinations. One of the prosecutors successfully argued that the exams would "victimize the children all over again," the Montgomery Advertiser reported.

Like many victims, the children in that case had delayed reporting the abuse. Shame and fear often prevent child victims from reporting sexual abuse right away. Some wait years before disclosing they were abused—if they ever disclose the abuse at all.

Children's advocacy centers across the U.S. investigated nearly 250,000 cases involving child [sexual abuse](#) allegations in 2022, the National Children's Alliance reported, but historical data shows that physical evidence is present in fewer than 5% of all reported cases.

Finding proof "is a needle in the haystack," Laskey said.

Attorney Robert Butcher said the federal lawsuits in South Carolina may eventually be consolidated for the sake of efficiency. He doubted they would be resolved this year, but said cases already decided in favor of children and their parents in other parts of the country bolster his clients' arguments.

In 1994, for example, a federal judge in New York found that a kindergartner who had been separated from her parents during a child abuse investigation "almost certainly did, in fact, experience psychological injury" during a forensic medical exam, when she was "subjected to intrusive bodily examinations by two strangers, in a strange location, in the absence of a parent or other reassuring figure."

More recently, a panel of federal appeals court judges in California ruled in 2018 that the County of San Diego violated the constitutional rights of

a family by failing to inform the parents that their children would undergo "significantly intrusive" and "potentially painful" forensic medical exams.

"This is as traumatic for the parents as it is for the children," said Cox, the California attorney who represented the family in that case.

Jane Doe, who filed the first of the three South Carolina lawsuits, doesn't know what the outcome of her case will be, and she doesn't talk about it at middle school.

"I have a couple of close friends," she said. "I don't tell anybody about what happened. I just want this to be an example so that never happens to another person."

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