



**MEDICAL CERTIFICATE
AND FORENSIC
EXAMINATION**

6. MEDICAL CERTIFICATE AND FORENSIC EXAMINATION

PREPARATION AND MATERIALS

OBJECTIVES

- Know how to complete a medical certificate
- Know when to decide to collect forensic evidence
- Know how to collect forensic evidence and how to support or facilitate this

AVAILABLE TRAINING RESOURCES



Presentation

6. Medical certificate and Forensic examination



Facilitator guide

6. Medical certificate and Forensic examination



Activity

6. Forensic evidence collection (30 minutes)



Videos

- 6.1 Introduction to forensic evidence collection
- 6.2 Collecting forensic evidence
- 6.3 Documenting the survivors history
- 6.4 Collecting evidence before the physical exam
- 6.5 Collecting evidence during the physical exam
- 6.6 Collecting evidence from the external genitalia and anus
- 6.7 Collecting evidence from the vagina and rectum
- 6.8 Preparation, storage and dissemination of evidence
- 6.9 Release of evidence
- 6.10 The importance of forensic evidence



Participant handouts

6.1: Sample medical certificates

*The following should **ONLY** be given if forensic evidence collection can be done within that context:*

6.2: The forensic medical examination

6.3: Medico-legal evidence in sexual violence

**REQUIRED SUPPLIES
& MATERIALS**

- Projector, laptop
- Pen and blank paper workbook
- Print outs of the scenarios for the activity – depending on which activities you choose

KEY MESSAGES

- Collect forensic evidence only when all four conditions are met
- Separate consent is needed for a forensic examination
- The assault history guides forensic evidence collection
- Time elapsed and activities undertaken after the incident determines whether evidence can be found
- Storage that avoids contamination, labelling and detailed documentation are essential
- Health care providers may need to provide testimony. They cannot conclude whether evidence points to rape. That is for the courts to establish.

**FURTHER RESOURCES
FOR FACILITATORS
(OPTIONAL)**

- WHO (2020) Clinical management of rape and intimate partner violence survivors Developing protocols for use in humanitarian settings, Annex 3 Forensic evidence collection, pg 46-48
- WHO, UNODC (2015) Strengthening the medico-legal response to sexual violence.

MEDICAL CERTIFICATE AND FORENSIC EXAMINATION FACILITATOR GUIDE



This session can be given in a short or longer version.

If forensic evidence will not be collected in the context, give a short version and **STOP** where indicated in the facilitator guide. If forensic evidence will be collected in the context and if time allows, consider giving the full version of the presentation – including the videos and the activity.

INTRODUCTION



Slides 1-2 Introduce the session

MEDICAL CERTIFICATE



SLIDES 3-4 MEDICAL CERTIFICATE

Slide 3 notes

- Physical and/or genital trauma or injuries can be **evidence** of force and should be documented and recorded on pictograms. Inform the survivor that some injuries might become more visible after some days and that, if this happens, they should return for examination and documentation.
- On the medical certificate: Note general appearance and functioning of the patient. Describe in detail all recent and old **injuries**. Note **limitations** to the examination (e.g., poor lighting, delays in reporting).
- The health-care provider should keep one copy of the medical certificate locked away with the survivor's file, in order to be able to certify the authenticity of the document supplied by the survivor before a court, if requested. The survivor has the sole **right to decide** whether and when to use this document.
- The medical certificate should be available for **free**; survivors should not be charged for it.
- Depending on the setting, the survivor may use the certificate up to 20 years after the event to seek justice or compensation.

Slide 4 notes

- Penetrative sexual activity of the vagina, anus or mouth **rarely** produces any objective signs of injury.
- The hymen may not appear injured even after penetration has occurred. Hence, the **absence of injury does not rule out penetration**.
- Penetration of the pre-pubertal genitalia (and some other forms of sexually abusive actions) do not necessarily result in physical injury.
- The health-care practitioner cannot make any comment on whether the activity was consensual or not.

FORENSIC EVIDENCE



SLIDES 5-7 FORENSIC EVIDENCE

Slide 5 notes

Forensic evidence may be used to support a survivor's story, to confirm recent sexual contact, to show that force or coercion was used, and possibly to identify the attacker. Proper collection and confidential and secure storage of forensic evidence can be key to a survivor's success in pursuing legal redress.

Slide 6 notes

- The **four conditions** listed on the slide must be met to conduct a forensic examination:
 1. Whether to collect forensic evidence depends on **whether the survivor wants** legal redress, or whether there is a legal obligation to report. However health care providers should not participate in forcible collection of forensic evidence. Evidence should only be collected and should only be released to the authorities if the survivor decides to proceed with a case. If a survivor is unsure if they want to report to the police and would like the option at a later time, you can still document findings on the medical certificate. Only if the survivor wants the option to report to the police at a later time, if there is the capacity to safely, securely store forensic evidence and if stored forensic evidence can be collected at a later time – then forensic evidence could be collected and stored. The role of the health practitioner is to provide relevant up to date information to the survivor so that they can make an informed decision about forensic examination. Their role is NOT to make the choice for them, we must respect their autonomy



2. Collection of forensic evidence should be based on the account of the sexual assault or abuse and **what evidence can be collected, stored and analysed**. Some types of forensic samples require simple laboratory facilities, others like DNA require specialized lab facilities. The capacity of laboratories to analyze forensic evidence varies considerably, and in humanitarian contexts is extremely limited. Different countries and locations have different laws about rape and different guidelines on what is accepted as evidence. Familiarize yourself with your national protocols and resources, what evidence can be collected, stored and accepted. Carefully consider whether or not to offer a forensic examination to a survivor, and provide all information to the survivor to help them make an informed decision. It is important to give the survivor information about the legal system, each step of reporting, and the potential harms and repercussions of reporting. Too often, evidence is collected when it is not required or relevant, or can be stored or analyzed. This adds unnecessary distress and trauma.
3. Whether to collect forensic evidence depends on **whether the survivor presents within 7 days of sexual assault**. If this is done, it can be used in court to argue that there is no evidence, when in fact no evidence could be expected if the person came after 7 days or had taken a bath, etc. Too often, also, evidence is collected when it cannot be storage or analysed. After 7 days finding any forensic evidence is not likely. Encourage the woman to receive medical care and treatment even if she declines a forensic exam.
4. Only **providers that are specifically trained** and have been supervised doing it, and are designated to collect forensic evidence should undertake full forensic examination.

Slide 7 notes

- Do not collect evidence that cannot be stored or used
- If the 4 elements are not present, then the evidence might not be recognized or used by a court, the harms of the invasive forensic evidence collection would outweigh any beneficial to the survivor. Too often, evidence is collected when it is not required or relevant, or can be stored or analyzed. This adds unnecessary distress and trauma.
- Even if evidence is not collected, conduct a full physical examination and document well – including offering a medical certificate (if the survivor consents). This can be useful if the survivor decides to pursue a legal case.



STOP HERE IF FORENSIC EVIDENCE WILL NOT BE COLLECTED IN THIS CONTEXT.



SLIDES 8-12 FORENSIC EVIDENCE COLLECTION AND STORAGE

Slide 8 notes

- If the health-care provider is collecting evidence, the narrative should guide what evidence to gather.

Slide 9 notes

- There are different purposes and processes for collecting specimens for health (pathology) and legal (forensic) investigations.
- Pathology specimens are analyzed to establish a diagnosis and/or monitor a condition.
- Forensic specimens are used to assess whether an offence has been committed and whether there is a link between individuals and/or locations.
- Pathology specimens may be significant as forensic evidence – for example, if an STI is found.

Slide 10 notes

- **Photographs** provide a useful adjunct to document injuries.
 1. Photograph any injuries while ensuring confidentiality if possible.
 2. Ensure that the photographs **do not allow direct identification of the individual**. Use a confidential code system to enable authorized staff to identify the individual. Note when photographs were taken.
 3. Obtain **separate consent** for collecting forensic evidence including any photographs
- Collect **specimens** from locations where biological material (for example, semen) might have been deposited: skin, hair and oral, vaginal and anal orifices. Swabs may be taken from the vagina, anus or oral cavity, if a penetration took place in these locations, to look for the presence of sperm and for prostatic acid phosphatase analysis.
- **Foreign material** (soil, leaves, grass) on clothes or body or in hair may corroborate the survivor's story. Foreign hairs may be found on the survivor's clothes or body. Pubic and head hair from the survivor may be plucked or cut for comparison
- **Clothing**: torn or stained clothing may be useful to prove that physical force was used or may contain DNA, including underwear.
- **Hair** – cut from the scalp may be useful if there is suspicion or allegation of covert drug administration.



Slide 11 notes

- Persistence of biological material is variable. It will be **affected by time, activities (washing) and contamination** from other sources.
- These **maximum times** are those generally agreed by forensic experts, but more evidence is needed.

Slide 12 notes

- The forensic laboratory requires information about the specimen (time, date, patient name/ID number, nature and site of collection) and what is being looked for.



Forensic evidence videos

- Video 6.1: Introduction to forensic evidence collection
- Video 6.2: Collecting forensic evidence
- Video 6.3: Documenting the survivors history
- Video 6.4: Collecting evidence before the physical exam
- Video 6.5: Collecting evidence during the physical exam
- Video 6.6: Collecting evidence from the external genitalia and anus
- Video 6.7: Collecting evidence from the vagina and rectum
- Video 6.8: Preparation, storage and dissemination of evidence
- Video 6.9: Release of evidence
- Video 6.10: The importance of forensic evidence



Activity 6 Forensic evidence



SUMMARIZE

The **4 conditions** for collecting forensic evidence are:

- 1** The survivor **wants to** go to the police
- 2** The survivor has come **within 7 days** after sexual assault
- 3** **Health care provider trained** in forensic examination is available
- 4** **Forensic science laboratory is available**