



Session 9

Handout 9e: Medico-legal evidence in sexual violence¹

Background/rationale

All parties involved in managing cases of sexual assault should be aware of the evidence that might be collected or require interpretation. The objectives of evidence collection can include: to prove a sexually violent act and some of its circumstances, to establish a link between the aggressor and the victim, to link facts and persons to the crime scenes, and to identify the perpetrator. Only medico-legal evidence that can be collected, properly stored, analysed and used should be gathered, and only with the full informed consent of the victim.

Key points

- The physical examination is primarily conducted to address health issues. If it is performed within 5 days of the assault, there may be value in collecting forensic specimens. All examinations should be documented.
- 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 exclude penetration. The health practitioner cannot make any comment on whether the activity was consensual or otherwise.
- There are different purposes and processes for the collection of specimens for health (pathology) and legal (forensic) investigations. Pathology specimens are analysed 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 linkage between individuals and/or locations. Pathology specimens may have a significant forensic importance, especially if a sexually transmitted infection is found.
- 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 specimens: the account of the assault will dictate whether and what specimens are collected. If in doubt, collect. Persistence of biological material is variable. It will be affected by time, activities (washing) and contamination from other sources. The maximum agreed time interval (time of assault to time of collection) for routine collection is:
 - skin including bite marks – 72 hours;
 - mouth – 12 hours;
 - vagina – up to 5 days;
 - anus – 48 hours;
 - foreign material on objects (condom/clothing) – no time limit;
 - urine (toxicology) 50 mL – up to 5 days;

¹ WHO, UNODC. Strengthening the medico-legal response. Geneva: World Health Organization; 2015 (https://apps.who.int/iris/bitstream/handle/10665/197498/WHO_RHR_15.24_eng.pdf?sequence=1&isAllowed=y, accessed 21 July 2018).



- blood (toxicology) 2 × 5 mL samples – up to 48 hours in tubes containing sodium fluoride and potassium oxalate.
- Hair – cut scalp hair may be useful if there is concern of covert drug administration.
- Careful labelling, storage and chain-of-custody recording is required in all cases.
- Samples should not be placed in culture media and should be dry before being packaged.
- Clothing (especially underwear) and toxicological samples should be collected if required.
- Photographs provide a useful adjunct to injury documentation. Issues of consent, access (respecting privacy and confidentiality) and sensitivities (particularly if genital photographs are taken) need to be addressed and agreed with the victim.
- Sexual violence should be considered during an autopsy examination. Documentation and specimen collection should occur in such cases.
- If sexual assault results in a pregnancy, then consideration should be given to collection of specimens for paternity testing.

Additional resources

- Guidelines for medico-legal care for victims of sexual violence. Geneva: World Health Organization; 2003 (<http://whqlibdoc.who.int/publications/2004/924154628X.pdf>, accessed 9 May 2014).
- World Health Organization, United Nations Population Fund, Office of the United Nations High Commissioner for Refugees. Clinical management of rape survivors. E-learning programme. Geneva: World Health Organization; 2009 (<http://www.who.int/reproductivehealth/publications/emergencies/9789241598576/en/index.html>, accessed 9 May 2014).
- United Nations Office on Drugs and Crime. Guidelines for the forensic analysis of drugs facilitating sexual assault and other criminal acts. New York: United Nations; 2011 (<http://www.unodc.org/unodc/en/scientists/guidelines-for-the-forensic-analysis-of-drugs-facilitating-sexual-assault-and-other-criminal-acts.html>, accessed 9 May 2014).