# Sexual Assault Investigation Evidence Consent and Forensic Procedures

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## Conceptual and Statistical Context of Sexual Assault

Sexual assault is defined as an act in which one touches another person in a sexual manner without receiving that person's consent. It also includes engaging in a sexual act by means of coercion or the use of physical force against their will. The different forms of sexual violence include rape, child sexual abuse, groping, or sexual torture. The National Center for Victims of Crime defines sexual assault as follows:

"Sexual assault takes many forms, including attacks such as rape or attempted rape, as well as any unwanted sexual contact or threats. Usually, a sexual assault occurs when someone touches any part of another person's body in a sexual way, even through clothes, without that person's consent."
The sexual assault and rape statistics in the United States suggest that every 6.2 minutes, a forcible rape incident occurs. 'The National Crime Victimization Survey' in 2010 stated 188,380 sexual assaults or rapes of victims who were age 12 and older, among which 49.6% were reported to law enforcement agencies. Further studies on sexual assault cite the data to be nearly 1 in 71 men and 1 in 5 women who, in their lives, have been raped at some point. An acquaintance or intimate partner was responsible for more than half of the female rape victims. A majority, 79.6% of female victims of completed rape, experienced their first rape before they were 25 years old, whereas close to 42.2% suffered before the age of 18.6. However, 1 in 4 male victims of completed rape underwent their first rape when they were 10 years old or younger.

Sexual assault and rape are causes of physical and emotional trauma, but it is also possible that victims do not experience any medical injury. Consent is the central issue in sexual assault or rape, and it is crucial to determine whether the involved parties consented properly or not and whether they had the capacity to do so (Mandi, 2014). A resulting physical injury from the use of physical force may not always be seen. Sexual assault devastates its victims on many levels: physically, emotionally and psychologically. It is an act of power, aggression and anger and is seen to be a form of exerting control over the other person. It is a traumatic violation of the mind, body and spirit that greatly affects a person's well-being and health (CRCVC, 2006).

# Evidentiary Challenges and Consent Claims

The crime of sexual assault is an underreported crime; however, it is also easily possible to falsely level sexual assault charges against someone without evidence. A sexual assault accusation can also be highly damaging to one's reputation or highly devastating to one's life. Investigations, therefore, must be performed with the utmost care, especially when the accused denies any charges. Evidence, especially physical evidence, is very important for investigations. The nature of the evidence could be material, biological, or medical evidence and requires experts from diverse fields, such as physicians, crime scene investigators, laboratory technicians, etc., who often jointly work on a case and form a report (CRCVC, 2006).

It is common for many perpetrators of sexual assault to claim that their sexual acts were consensual and, therefore, not rape (Kilpatrick, 2000). In this case, the investigation begins in order to challenge this position. The victim is required to show evidence of physical injuries in order to prove that the sexual act was not a result of a consensual choice but forced rape. The difficulty lies in the task of the prosecutors and investigators because, in many cases of rape, the victim does not receive any substantial physical injuries, and the absence of any injury may be deemed as consent. A detailed forensic exam may aid in highlighting injuries relevant to forced rape that may be accepted as evidence.

# Crime Scene and Forensic Medical Investigation

At the location of the rape or sexual assault, the investigation officer has to mainly look towards the victim's requirements, such as medical assistance. Initially, the investigators must look for physical material the attacker may have used or that may have been present with him. It is seen that a rape victim, generally, may tear clothes, scar or scratch the face or try to pull the hair of the perpetrator. Any strands of hair are very important to the investigation. All the evidence material must be handled, gathered and carefully packed before being sent to the forensic analysis labs for further testing (Kim Thuy Seelinger, 2011).

Another part of sexual assault or rape investigation is the medical exam that is to be performed by a forensic medicine specialist. It includes a vaginal examination to check for signs of any tissue damage. A pap smear test is carried out in order to determine the absence or presence of the perpetrator's semen. The anus, mouth, etc., may also be examined by forensics if the rape has resulted in the death of the victim (Deval L. Patrick, 2009).

The victim's body is treated as a crime scene by the forensic medical examination. The forensic team is tasked with collecting any evidence that can prove whether a rape occurred, initially based on the victim's explanation of the incident. Any signs that may prove the identity of the assailant are crucial at this point. If the suspect or accused denies participating in any sexual act with the victim claiming rape, then a DNA test or appropriate material evidence is obtained, which may be used to prove

whether a sexual act was committed by the suspect or not. It is not easy to counter claims of consensual sexual activity, though proof of physical injuries is a means of investigating such claims (Kim Thuy Seelinger, 2011). Newer technology has enhanced the detection of injuries that can help confirm or deny such claims. A colposcope and other such instruments are used for this purpose.

The crime scene processing phase involves identifying, examining, recording and collecting physical evidence upon which recognition, comparisons and individualization are made later. The utmost care is required when this evidence is preserved and collected (Deval L. Patrick, 2009). Proper procedures must be followed when collecting any chemical or biological evidence. Any solid objects that bear material evidence that is biological in nature must have a clean paper covering and the stained area sealed in order to prevent dilution or contamination of evidence.

# Biological and Physical Evidence in Sexual Assault Cases

The sexual assault victims are then brought to a medical facility within 3 to 4 days. A sexual assault nurse examiner (SANE) with specialized training in rape investigations performs a detailed medical exam. If the victim has not showered or changed clothes before the exam, it is more helpful for the investigators. If the victim reports the crime within 12 hours of the assault incident, it is usually possible to gather substantial positive evidence for the crime if it has occurred (Littel, 2001). The saliva and blood samples are also collected by the forensic investigators and examiners in order to distinguish them from the accused. To obtain evidence from DNA, seminal fluid or semen is also used as evidence. Since the seminal fluid has a high concentration of prostatic-specific acid phosphatase compared to vaginal fluids, it can be used for the investigation. Furthermore, genital trauma evidence can be used in order to assess the victim’s version of the incident, which can also help prove whether the use of force was indeed present. The body position of the victim during the assault is also related to the genital trauma and can be used to corroborate the victim’s narration of the incident in some cases. The examination of genital trauma is able to indicate the use of force; however, a lack of genital trauma may still not be considered consensual sexual activity.

In cases of rape, physical evidence is collected in order to determine whether sexual penetration has occurred or whether the act was a case of nonconsensual sex or not. The identity of the perpetrator can also be established through physical evidence. In consensual sex, it is observed that the seminal fluid would be more likely to be present, whereas in rape, it would be absent. Furthermore, primary and secondary physical evidence includes soiled or torn clothing, cuts, bruises, or pulled hair, which are indications of a struggle or fight before or during the act of sexual intercourse, indicating rape. Other important clues include palm prints, fingerprints and even footprints in order to help the investigation reach closer to the perpetrator. In the case of drug-aided sexual assault, urine and blood samples are acquired as important evidence. Especially when there is any evidence of suspicious powder or pills found near the crime scene, investigators should duly consider this possibility.

Forensic analysis and collection of physical evidence can aid in recognizing the perpetrator; however, the circumstances and situations under which to profile the accused must also be known. The victims of sexual assault include victims of both sexes, adults, children, elders or even the disabled. Therefore, appropriate and relevant evidence must be searched for in each case according to its nature. In a case of child molestation, the physical evidence may be much less, but other signs, like bedwetting, nightmares, urinary tract infections, etc., are usual symptoms pointing to child abuse (Kim Thuy Seelinger, 2011). Any signs of broken bones or strange bruises can be examined through X-ray tests and are crucial to the investigation. For sexual assaults involving LGBT individuals, the SANE nurse is required to examine the rectum to take a swab sample to check for any presence of semen.

# Multidisciplinary Investigation and Prevention

Sexual assault investigations are complex and require a multi-faceted approach. To make the prosecution and investigation of rape and sexual assault more effective, a joint effort of several enforcement agencies may be required. These include law enforcement agencies, medical personnel, victim recovery services, rehabilitation, prosecution and correctional facilities. All of these services are interlinked, and if they work together, they can greatly help reduce the cases of sexual assault and rape present in our society. Furthermore, education and awareness regarding sexual assault and rape must be spread in meaningful ways in order for society to jointly combat this crime.

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