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## MEDICO-LEGAL CARE FOR RAPE VICTIM-A REVIEW

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### ABSTRACT

The rape victim faces legal, psychological, and medical issues. In order to respond to all her needs, the physician must be aware of the legal questions to be answered in the record, the patient's psychological needs in this high stress situation, and the medical problems that are likely to arise. Government guidelines are essentially aimed at doctors who might one day be called upon to handle female victims of sexual assault / rape in the course of their duty whether in a government hospital or even a private one. As is known rape law has been made more stringent with zero tolerance for offenders and govt. guideline is to ensure a sensitive and humane approach to such victims, their proper treatment apart from attending or treating doctors responsibility and duty in recording and documenting the medical aspects in order that such cases when they come up before the criminal justice system are not found wanting in the quality of evidence produced by the prosecution during trial.

**Keywords** – Forensic Examination, Rape, Sexual Assault.

**INTRODUCTION-**

Any person, adult or child, male or female, who states that they have been raped has three basic needs: medical, legal, and psychological. Medical needs include the treatment of any physical injuries, evaluation and treatment of venereal disease and pregnancy, and arrangement for follow up. Legal requirements include collecting evidence specimens, compiling an accurate record, and protecting the chain of evidence. If these legal requirements are not met, the victim may have an insufficient data base for prosecution. Support during the initial exam and appropriate follow-up are examples of psychological needs. If these psychological needs are not met, the patient may not feel that she obtained the help she was seeking. Any negative attitudes displayed by medical personnel can be passed on to the victim, further traumatize her emotionally. **She can then feel that she has just been raped a second time.** Too often, staff curiosity leads to the victim being subjected to repetitive and irrelevant questions from people who have no need to know about the assault. **A rape victim should be approached as what she is: an injured human being seeking help.**

Rape is a legal diagnosis, not a medical one; thus, the physician is not required to rule on the veracity of the victim's complaint. It is the physician's responsibility to provide all available evidence to the legal authorities through the medical record.

**AIM & OBJECTIVE-**

- 1) To study the medical care of rape victim.
- 2) To study the legal care of rape victim.

**MATERIAL AND METOD-**

For this study various modern textbook, published articles and information from internet are used.

**1) MEDICAL EXAMINATION AND REPORTING FOR RAPE/SEXUAL VIOLENCE-**

The following guidelines are for health professionals when a survivor of sexual violence reports to a hospital. The guidelines describe in detail the stepwise approach to be used for a comprehensive response to the sexual violence survivor as follows<sup>1</sup>:

- i. Initial resuscitation/ first Aid
- ii. Informed consent for examination, evidence collection, police procedures
- iii. Detailed History taking
- iv. Medical Examination
- v. Age Estimation (physical/dental/radiological) – if requested by the investigating agency.
- vi. Evidence Collection as per the protocol
- vii. Documentation
- viii. Packing, sealing and handing over the collected evidence to police
- ix. Treatment of Injuries
- x. Testing/prophylaxis for STIs, HIV, Hepatitis B and Pregnancy
- xi. Psychological support & counseling
- xii. Referral for further help (shelter, legal support)

Record the name of hospital where the survivor is being examined

## 2) INITIAL CARE-

The victim should be taken care of as soon as she arrives. If at all possible, a professional should go with the victim to a different waiting area. It is advantageous if this individual can stick by the patient during the subsequent interrogation and assessment. Family members and friends should be discouraged from remaining with the patient in the examining room.

With children, though, a parent's support may be crucial, or the parent's own panic can actually make things worse. If so, it would be beneficial to keep the parent and child apart until the parent can gain some emotional control.<sup>2</sup>

## 3) CONSENT

Because a rape examination involves collection of specimens and documentation of conditions primarily for use in any subsequent legal proceedings, it is essential to obtain properly signed and witnessed consent. For the physical examination (which includes a pelvic exam), the gathering of specimens, any required photos, any blood or urine samples, any treatment administered, and the disclosure of information to legal authorities, consent should be obtained. The patient should be made aware of her right to refuse any portion of the examination before asking for consent; however, she should be encouraged to allow the evidence to be collected, since she might decide to

prosecute later, when the evidence is no longer present.<sup>3</sup>

## 4) HISTORY

It's important to explain to the patient the purpose of the questions when collecting a history. The patient may mistakenly believe that the questions are being asked out of pure curiosity if it is not made clear that they help the doctor conduct an accurate examination.

The date, time and place of the rape should be noted. This will aid in the search for evidence as well as in the evaluation of specimens.

Was the patient injured and how? If restraints were used, they may have left marks on the skin which can be documented. The patient should be questioned about drug or alcohol use, not only before the attack but afterwards as well.

There isn't much information available regarding the frequency of foreign objects like sticks, bottles, and knives being inserted into the vagina. Undoubtedly, a foreign object has the capacity to seriously lacerate the vagina. The patient has to be questioned about any recent injuries or surgeries that she could have had before the attack. Recent injuries might have left scars that could be mistaken for rape wounds.

Note whether the patient douched, bathed or changed clothes after the incident. As victim feeling "dirty" and wanting to clean themselves immediately. This would obviously affect subsequent laboratory investigations.<sup>4</sup>

## 5) PHYSICAL EXAMINATION

Since rape is a legal diagnosis, not a medical one, the physical examination is for two purposes: to provide the physician with the information needed to treat this patient, and to answer the following legal questions:

1. Was the patient capable of giving consent to intercourse?
2. Is there evidence that force was used?
3. Is there evidence of vaginal penetration?
4. What physical evidence is present that supports the claim of rape? These purposes are certainly not mutually exclusive.

### A) GENERAL EXAMINATION<sup>5</sup>-

- Record if the person is oriented in space and time and is able to respond to all the questions asked by the doctor. Any signs of intoxication by ingestion or injection of drug/alcohol must be noted.
  - Pulse, B.P., respiration, temperature and state of pupils is recorded.
- A note is made of the state of clothing if it is the same as that worn at the time of assault. If it is freshly torn or has stains of blood/ semen/ mud etc.; the site, size, and color of stains should be described.

### B) EXAMINATION OF INJURIES-

- Presence of injuries is only observed in one third cases of forced sexual intercourse. Absence of injuries does not mean the survivor has consented to sexual activity. As per law, if resistance was not offered that does not mean the person has consented.

- The entire body surface should be inspected carefully for signs of bruises, physical torture injuries, nail abrasions, teeth bite marks, cuts, lacerations, fracture, tenderness, any other injury, boils, lesions, discharge specially on the scalp, face, neck, shoulders, breast, wrists, forearms, medial aspect of upper arms, thighs and buttocks
- Describe all the injuries. Describe the type of injury (abrasion, laceration, incised, contusion etc.), site, size, shape, color, swelling, signs of healing, simple/grievous, dimensions. Mention possible weapon of infliction such as - hard, blunt, rough, sharp, etc.
- Injuries are best represented when marked on body charts. They must be numbered on the body charts and each must be described in detail.
  - Describe any stains seen on the body - the type of stain (blood, semen, lubricant, etc.) its actual site, size and color. Mention the number of swabs collected and their sites.

### C) LOCAL EXAMINATION OF GENITAL PARTS/OTHER ORIFICES

- External genital area and Perineum is observed carefully for evidence of injury, seminal stains and stray pubic hair. Pubic hair is examined for any seminal deposits/ stray hair. Combing is done to pick up any stray hair or foreign material, and sample of pubic hair, and matted pubic hair is taken and preserved. If pubic hair is shaven, a note is made.
- In case of female survivors, the vulva is inspected systematically for any signs of recent injury such as bleeding, tears, bruises, abrasions, swelling, or discharge

and infection involving urethral meatus & vestibule, labia majora and minora, fourchette, introitus and hymen.

- Bleeding/swelling/tears/discharge/stains/warts around the anus and anal orifice must be documented. Per-rectal examination to detect tears/stains/fissures/hemorrhoids in the anal canal must be carried out and relevant swabs from these sites should be collected.
- Oral cavity should also be examined for any evidence of bleeding, discharge, tear, odema, tenderness.

#### 6) CHAIN OF EVIDENCE

The chain of evidence must be safeguarded for the evidence gathered during a rape investigation to be legally admissible. This implies that written documentation of who has had custody of the specimens is required.

The history taking & examination should be carried out in complete privacy in the special room set up in the hospital for examination of sexual violence survivor.

The room should have adequate space, sufficient lighting, a comfortable examination table, all the equipment required for a thorough examination, and the sexual assault forensic evidence (SAFE) kit containing the following items for collecting and preserving physical evidence following a sexual violence:

- Forms for documentation
- Large sheet of paper to undress over
- Paper bags for clothing collection
- Catchment Paper

- Sterile cotton swabs and swab guards for biological evidence collection
- Comb
- Nail Cutter
- Wooden stick for finger nail scrapings
- Small scissors
- Urine sample container
- Tubes/ vials for blood samples
- Syringes and needle for drawing blood
- Distilled water
- Disposable gloves
- Glass slides
- Envelopes or boxes for individual evidence samples
- Labels
- Lac(sealing wax) Stick for sealing
- Clean clothing, shower/hygiene items for survivors use after the examination

Other items for a forensic/medical examination and treatment that may be included are: □ Woods lamp/Good torch

- Vaginal speculums
- Drying rack for wet swabs &/or clothing
- Patient gown, cover sheet, blanket, pillow
- Post-It notes to collect trace evidence
- Camera (35mm, digital with color printer)
- Microscope
- Colposcope/ Magnifying glass
- Toluidine blue dye
- 1% Acetic acid diluted spray
- Urine Pregnancy test kit
- Surgilube
- Medications

#### 7) TREATMENT

The next phase in the medical care of the rape victim is treatment for the possible sequelae: venereal disease, pregnancy,

and the physical and psychological trauma.

### 8) FOLLOW-UP

Please emphasize the importance of follow up to the survivor. It is ideal to call the survivor for re-examination 2 days after the assault to note the development of bruises and other injuries; thereafter at 3 and 6 weeks. All follow ups should be documented.

### 9) PSYCHOLOGICAL CARE

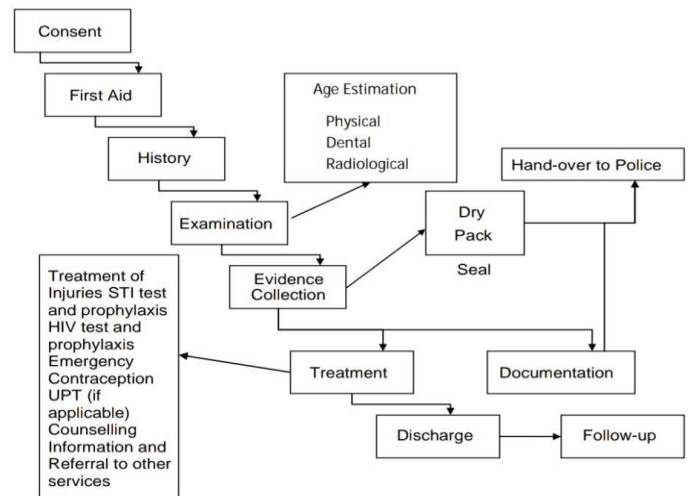
All survivors should be provided the first line support. The health professional must provide this support himself/herself or ensure that there is someone trained at the facility to provide this.

## DISCUSSION

Rape is certainly a life crisis situation. There are basically four roles that medical personnel can serve in psychological support during the initial examination:

1. Evaluating the patient's mental status.
2. Defining the problem and alternatives with the patient.
3. Providing information and explanations.
4. Providing physical supports.

The following components of a comprehensive health care response to sexual violence and must be carried out in all cases:





## CONCLUSION

Forensic examination in sexual assault reflects many of the core principles of forensic medicine. However, the interpretation of medical evidence depends on expertise and information gained from a variety of medical specialties, including gynecology, dermatology, surgery, and the fields of sexual health and fertility medicine.

The full spectrum of rape/sexual assault can be better understood by interaction between primary care clinicians, hospital staff, and forensic pathologists inside or outside the mortuary. It is possible to improve the forensic components of rape/sexual assault to everyone's benefit by combining the expertise and experience of everyone involved in the field and working together to maximize patient treatment, medical evidence value.

In a crisis like rape, the doctor is required to play several different roles. As we provide for the rape victim's needs more effectively, more and more women will come out to report their assaults.

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