Forensic Medical Evidence in Sexual Assaults

Jason Payne-James

What is needed from healthcare professionals?

Examination in Cases of Sexual Assault

- Health and legislative problems for every society
- Clinical assessment of complainants (victims) and suspects (assailants)
  - choice of examiner (gender)
  - doctors and/or healthcare professionals with specific experience and knowledge
- Medical ethics
  - consent & confidentiality
- Knowledge base
  - medical conditions/pathology/disease
  - medical care
  - forensic/legal issues
  - retrieval of evidence
  - preservation of evidence
  - presentation of evidence (documentation – role in court)
- Principles of forensic analysis

Key Stages in Examination in Cases of Sexual Assault

- Presentation
  - complainant/victim
  - suspect/defendant
- Information
- Examiner
- Location (e.g., SARC/police station/hospital)
- Technique
- Documentation
- Interpretation of findings
  - normal/abnormal
  - presence or absence of evidence-base (published literature)
- Statement writing
- Live evidence
  - professional
  - expert

Examination in Cases of Sexual Assault

- 'Victim' examinations
- 'Suspect' examinations
- Doctor (or other)
  - prior knowledge
  - 7 first account
  - statement
  - ABE interview
- Range of skills (competence)
  - SARCs/Havens
  - doctors (seniority)
  - nurses
  - forensic
  - non-forensic
- Training
  - initial mentoring
  - update

Knowledge Base

- Anatomy, development, physiology
- Awareness of range and frequency of normal sexual practices
- Assorted activities – social, cultural, religious, ethnic, sexual orientation
- Reasons for examination
- Reasons for sampling
- Methods of sampling

References:
Key Considerations - Medical Examination
Victim and Suspect
- Immediate medical care
- Timing of the examination
- Location of the examination
- Consent
- Details of the allegation (accounts)
- Medical & sexual history
- Drug and alcohol history
- Nature of the examination
  - General (including, development, height and weight)
  - Anogenital examination
- Ownership and handling of notes and photodocumentation

Key Considerations - Forensic Analysis

Medical Evidence - general information
- How was the injury sustained?
- Weapon or weapons used (if still available)
- When was the injury sustained?
- Has injury been treated?
- Pre-existing illnesses (eg skin disease, bleeding diathesis)
- Regular physical activity (eg contact sports)
- Regular medication (eg anticoagulants, steroids)
- Handledness of victim and suspect
- Use of drugs and alcohol
- Clothing worn

Medical Evidence - injury classification
- Wheals & erythema (reddening)
- Bruises (contusion, ecchymosis)
  - haematoma
  - petechiae
- Abrasions (grazes)
  - punctate
  - scuff/brush abrasions
  - pointed abrasion
- Lacerations
- Incisions
  - slash
- chop
- Stab wounds
- Bites (forensic odontologist)

Medical Evidence - injury characteristics
- Location
- Pain, tenderness, stiffness
- Type (eg bruise, cut, abrasion)
- Size (use metric values)
- Shape, colour
- Orientation
- Age
- Castration
- Time
- Transientness of injury

Methods & Site of Sampling
- Assailant and complainant
- All parts of body where contact may have occurred:
  - licked
  - kissed
  - sucked
  - bitten
  - ejaculation
  - penetration
  - (visual marks of injury)
- Miscellaneous
  - eyes, contact lens
  - toilet tissue
  - faeces

Assorted injuries

Sexual acts – consensual
- fellatio – penis placed in mouth, sexual stimulation by sucking, + ejaculation
- 55% Evans BA, Bond RA, Macrae KD. Sexual behaviour in women attending a gardiner clinic, Southwark, London. 1988
- cunnilingus – female genitalia licked, sucked or rubbed by lips or tongue
- anilingus – anus is licked, sucked or rubbed by lips or tongue

Sexual acts – non-consensual
- fellatio – penis placed in mouth, sexual stimulation by sucking, + ejaculation
- Often in association with other acts
- 17% F 14% M performed fellatio, 31% M were subject to fellatio. Keating SM, Higgs DF, Oral sex – further information from sexual assault cases. J Forensic Sci 32:327–331 1987
- cunnilingus – female genitalia licked, sucked or rubbed by lips or tongue
- anilingus – anus is licked, sucked or rubbed by lips or tongue
- No data available

Injuries to external genitalia
- Lacerations (tears)
- Abrasions
- Bruises
- Posterior fourchette, labia majora, minora
Localization of genitoanal injury in 80 women exposed to sexual assault

<table>
<thead>
<tr>
<th>Location</th>
<th>Number</th>
<th>(%)</th>
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<tbody>
<tr>
<td>Hymen</td>
<td>14</td>
<td>(17.5)</td>
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<tr>
<td>Labia majora</td>
<td>3</td>
<td>(3.8)</td>
</tr>
<tr>
<td>Labia minora</td>
<td>8</td>
<td>(10.0)</td>
</tr>
<tr>
<td>Vestibule</td>
<td>7</td>
<td>(21.3)</td>
</tr>
<tr>
<td>Anterior fourchette</td>
<td>39</td>
<td>(48.8)</td>
</tr>
<tr>
<td>Perineum</td>
<td>6</td>
<td>(7.5)</td>
</tr>
<tr>
<td>Anus/perianal</td>
<td>18</td>
<td>(22.5)</td>
</tr>
<tr>
<td>Vagina</td>
<td>4</td>
<td>(5.0)</td>
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<tr>
<td>Single site trauma</td>
<td>54</td>
<td>(67.5)</td>
</tr>
<tr>
<td>Multiple site trauma</td>
<td>26</td>
<td>(32.5)</td>
</tr>
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</table>


Medical Evidence - documentation
- Written
- Body diagrams
- Photography
  - print
  - digital
- DVD
- Storage
- Disclosure and review

Medical Evidence - female genitalia

Evidence-base?
- Consensual
- Non-consensual
- Adult
- Adolescent
- Child
- Chronic
- Acute
- Wound healing

Consensual Sexual Contact – Anogenital Injuries
- Adolescents (13 – 17 y) reporting consensual sexual intercourse (CSI) n = 51
- Controls - victims of alleged sexual assault or non-consensual sexual intercourse (NCSI) matched to cases by age and prior sexual intercourse experience.
- Genital trauma was documented using colposcopy with nuclear staining and digital photography.
- 49% (25/51) of CSI subjects reported no prior sexual intercourse experience.
- CSI and NCSI frequency of genital injuries (73% vs. 85%, p = 0.069).
- Mean anogenital injuries in CSI = 1.9 ± 1.5 vs. Mean anogenital injuries in NCSI subjects = 2.6 ± 2.0 (p = 0.02).
- Anogenital trauma was documented in 73% of adolescent females after consensual sexual intercourse versus 85% of victims of sexual assault. The localized pattern and severity of anogenital injuries were significantly different when compared with victims of sexual assault. The presence of anogenital trauma suggests that penetration has occurred and implies nothing about consent.

Adolescent Sexual Assault

- \(N = 214\)
- Age 14-19y (mean 16.3)
- ‘hymenal tears uncommon, even in self-described virginal girls’ – irrespective of mode of penetration
- ‘virginal girls’ – 19% had hymenial tears


Anal injuries

- Assesses:
  - anus
  - perianal area
  - anal canal
  - anal sphincter
  - rectum
- Anal fissures
- Anal tears
- Anal lacerations
- Anal bruising
- Rectal tears
- Rectal lacerations
- Rectal bruising
- Anal/perianal and gastrointestinal disease

New Data

- Retrospective review - \(n = 234\)
- 14 to 29 years
- Genital injury was described by injury prevalence, frequency, and anatomical locations of injuries.
- Genital injury prevalence was 62.8%.
- Younger age was not significantly associated with the presence or absence of genital injury.
- Younger age was significantly associated with an increased number of genital injuries overall and to the thighs, labia minora, periurethral area, fossa navicularis, and vagina

Extra-genital injuries

- Consensual
- Restraint
- Assault
- ‘Rough and tumble’
- ‘Horseplay’

Bruising

- Direct force
  - ? kick
  - ? sexual
  - ? number of impacts
  - ? how old

Blunt force

- Patterned

Bites

- Use odontologist when source of bite unknown
**Other Issues**

- Doctors (and other healthcare professionals) assume police officers in case will know which samples are required or why they are being requested - and vice versa.
- Effects of alcohol
- Effects of drugs
- False complaints do occur
- Doctors must remain non-judgemental with regard to:
  - A) examination
  - B) interpretation
- In court other accounts may be given
- Professional vs expert witnesses

**Problems Related to Medical Examination**

- British culture of alcohol and drugs?
- Inexperience:
  - Inadequate examination
  - Inadequate support - senior staff - medical - police
  - Inadequate understanding of significance of
    - Genital injuries
    - General injuries
- Overstating conclusions
- Bias
- Making assumptions and ignoring the fact that there are other accounts of events
  - "is consistent with the allegations (and.....??)"
- Experts
- Juries

**Warning**

"As everybody who has anything to do with the law knows, the path of law is strewn with examples of open and shut cases which, somehow, were not; of unanswerable charges which, in the event, were completely answered; of inexplicable conduct which was fully explained; of fixed and unalterable determinations that, by discussion, suffered a change."


**Advice**

"Justice 'according to law' demands proper evidence. By that we mean not merely evidence which might be true and to a considerable extent probably is true, but, as the learned trial judge put it, "evidence which is so convincing in truth and manifestly reliable that it reaches the standard of proof beyond reasonable doubt."

Court of Appeal in R. v Steenson and others [1986] NUB17 – Lord Lowry LCJ

And quoted by Weir J in R v Sean Hoey

**Have an open mind**

- approached from behind and a cord placed around her neck until unconscious
- gag being strangled with a rigid object round her neck but not fully to the back of her neck
- passed out after being pulled backwards by the item around her neck
- felt sore in her vagina
- tried to put her finger through the wire/rope but it was sharp and rigid
Have an open mind
- threw me onto the bed
- straddled me
- punched me on the left side of the head
- he’s right handed
- tried to strangle me
- raped me

Problems?
BMJ 2005 331 594 (17 September)

Pathologist faces GMC hearing over altered autopsy report
London Owen Dyer

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