

# chapter 12: Sexual Assault.

# Introduction:

Adults and children, males and females may all be victims of sexual assault. Most victims are female but a large minority, perhaps 10%, are male. Sexual assault occurs within families or maybe by strangers and maybe associated with crimes against humanity, war crimes and genocide.

- *Additional note*

# Examination requirements

- 1) The **complainants** of sexual assault are examined by competent, sympathetic sexual offence examiners; these are generally physicians with a special interest in forensic aspects of medicine.
- 2) Complainants (and suspects of sexual assault) should be offered the choice of a doctor of their own gender. **Sexual Assault Referral Centres (SARCs)** are being created in most countries. They provide appropriate assessment and sampling following the initial assault, and post-assault care with regard to issues such as genitourinary health, contraception and counselling.

### 3) Things to consider:

**A) Emergency contraception:** the use of oral contraceptive or insertion of an intrauterine device.

**B) Prevention of STDs:** will require prescribed medication for which prophylactic/therapeutic regimens will apply.

**c) Infection by the human immunodeficiency virus (HIV):** a specialist advice is needed regarding post-exposure prophylaxis.

**D) Hepatitis B:** following male rape and that risk increases with additional factors such as multiple assailants, intravenous (IV) drug use, or high prevalence area.

Many SARCs also allow complainants who do not wish to involve the authorities immediately to provide anonymized assessment and collection of samples, so that a complainant may later proceed with police investigation if they change their mind.

# Definitions and the law

## **Box 12.1 Key definitions of offences under the Sexual Offences Act 2003 (England and Wales)**

### **Section 1: definition of the act of 'rape'**

A person (A) commits an offence [of rape] if:

- he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis,
- B does not consent to the penetration, and
- A does not reasonably believe that B consents.

A person found guilty of rape under this section is liable, on conviction on indictment, to imprisonment for life.

### **Section 2: definition of the offence of 'assault by penetration'**

A person (A) commits an offence if:

- he intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else,
- the penetration is sexual,
- B does not consent to the penetration, and
- A does not reasonably believe that B consents.

A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

### **Section 3: definition of 'sexual assault'**

A person (A) commits an offence if:

- he intentionally touches another person (B),
- the touching is sexual,
- (B) does not consent to the touching, and
- (A) does not reasonably believe that (B) consents.

A person guilty of an offence under this section is liable:

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both;
- (b) on conviction or indictment, to imprisonment for a term not exceeding 10 years.

# Medical assessment

## Medical assessments of sexual assault:

- to identify and treat injury or other risk issues (e.g. infection), and to identify and collect evidence that may assist the courts to establish the facts of the case.
- In many cases the **medical evidence is neutral** and the issue of consent is the determination the court has to make.
- In some cases the need for urgent medical care because of injury overrides the immediate need for a sexual assault examination.
- Healthcare aspects have priority. Wherever possible, **examinations should be undertaken at the earliest opportunity in order to ensure best opportunities for evidential sampling.**
- **The history of the alleged assault from the complainant is an extremely important part of the assessment.**
- The doctor should ensure that they record the briefing details from the referring police team, **and then record verbatim\* the account of the complainant themselves**, as discrepancies may become very significant at a later stage of any legal proceedings.
- Apart from a general medical history, detail of the full history of events and any specific physical contacts must be identified.
- Recent drug and alcohol intake must be recorded, and this may be relevant in terms of ability to recall events appropriately **especially with drug-facilitated sexual assault.**
- **Specific questions:** these may affect subsequent findings or recovery of evidence. Such questions include ‘**Since the assault have you/ noted pain... noted bleeding... brushed teeth... passed urine... defaecated... douched?**’ A full medical history must be taken . **Previous sexual history should not generally be relevant. Based on this history, an appropriate examination can be undertaken to collect appropriate evidential samples.**

\*Note: **verbatim:** in exactly the same words as were used originally.

A standard general physical examination will be done. **The external examination will focus on those areas that the history indicated as having been in general or particular physical contact, as these are particular areas where trace evidential materials that may provide DNA or other links maybe found.**

**The genitoanal examination** may be undertaken by naked eye, or with the assistance of specialist lighting, magnification or colposcopes.

**Examination of a female** complainant will record the presence of any abnormalities or the absence of any findings in the following anatomical sites: thighs, buttocks and perineum; pubic area; pubic hair; labia majora; labia minora; clitoris; posterior fourchette; fossa navicularis; vestibule; hymen; urethral opening; vagina and cervix. **For the male** (suspect or complainant) the buttocks, thighs, perineum, anus, perianal area, testes, scrotum and penis (including shaft, glans and coronal sulcus) will be examined.

# Evidential Samples and Documentation of Findings

- Appropriate samples in sexual assault will assist in determining **the nature of sexual contact, the gender and possibly identity of the assailant and possible links with other offences.**
- Samples that may be required include blood (for DNA and drugs and alcohol), urine; hair (head and pubic), nails and swab samples from body orifices and genitalia.
- **In the case of a suspect** the doctor should advise the police investigators regarding samples as legal requirements will need to be observed in order to appropriately request samples.
- The persistence of evidentially relevant materials is variable and advice should be sought from a **forensic scientist or forensic toxicologist** when considering **whether a sample is relevant to take.**
- In general, foreign biological fluids (e.g. semen) can be detected in the mouth up to about 48 hours after contact, in the anus or rectum up to about 3 days and in the vagina or endocervix up to about 7 days.
- As with all forensic assessments, documentation should be thorough, recording relevant positive and negative findings.
- The following should always be documented: weight, height, general appearance, skin abnormalities or changes (e.g. scars, tattoos, piercing) and appearance of the hair (e.g. dyed, shaved).

# Table 12.1 summarizes the type of sample and what may be achieved from analysis of such a sample

Sample type	What may be identified by analysis
Blood	Presence and amount of alcohol and drugs; identify DNA
Urine	Presence and amount of alcohol and drugs
Hair (head), cut and combed	Identify biological fluids (wet and dry); foreign material (e.g. vegetation, glass, paint, fibres); comparison with other hairs found on body; past history of drug use
Hair (pubic), cut and combed	Identify biological fluids (wet and dry); foreign material (e.g. vegetation, glass, fibres); comparison with other hairs found on body; past history of drug use (prescribed; licit and illicit)
Buccal scrape	DNA profiling
Skin swabs (at sites of contact)	Identify biological fluids (e.g. semen, saliva – wet and dry); cellular material; lubricant (e.g. KY, Vaseline)
Mouth swabs	Identify semen
Mouth rinse	Identify semen
Vulval swab	Identify biological fluids (e.g. semen, saliva); foreign material (e.g. hairs, vegetation, fibres)
Low vaginal swab	Identify body fluids (e.g. semen, saliva); foreign material (e.g. hairs, vegetation, fibres); identify biological fluids (e.g. semen, saliva); foreign material (e.g. hairs, vegetation, fibres)
High vaginal swab	Body fluids (e.g. semen, saliva); foreign material (e.g. hairs, vegetation, glass, fibres); identify biological fluids (e.g. semen, saliva); foreign material (e.g. hairs, vegetation, fibres)
Endocervical swab	Identify biological fluids (e.g. semen)
Penile swabs (shaft, glans, coronal sulcus)	Identify biological fluids (e.g. semen)
Perianal swabs	Identify biological fluids (e.g. semen)
Anal swabs	Identify biological fluids (e.g. semen)
Rectal swabs	Identify biological fluids (e.g. semen)
Fingernail swabs, cuttings or scraping	Identify foreign material (e.g. skin cells), matching of broken nails



# Medical Findings After Sexual Contact

## Interpretation of findings:

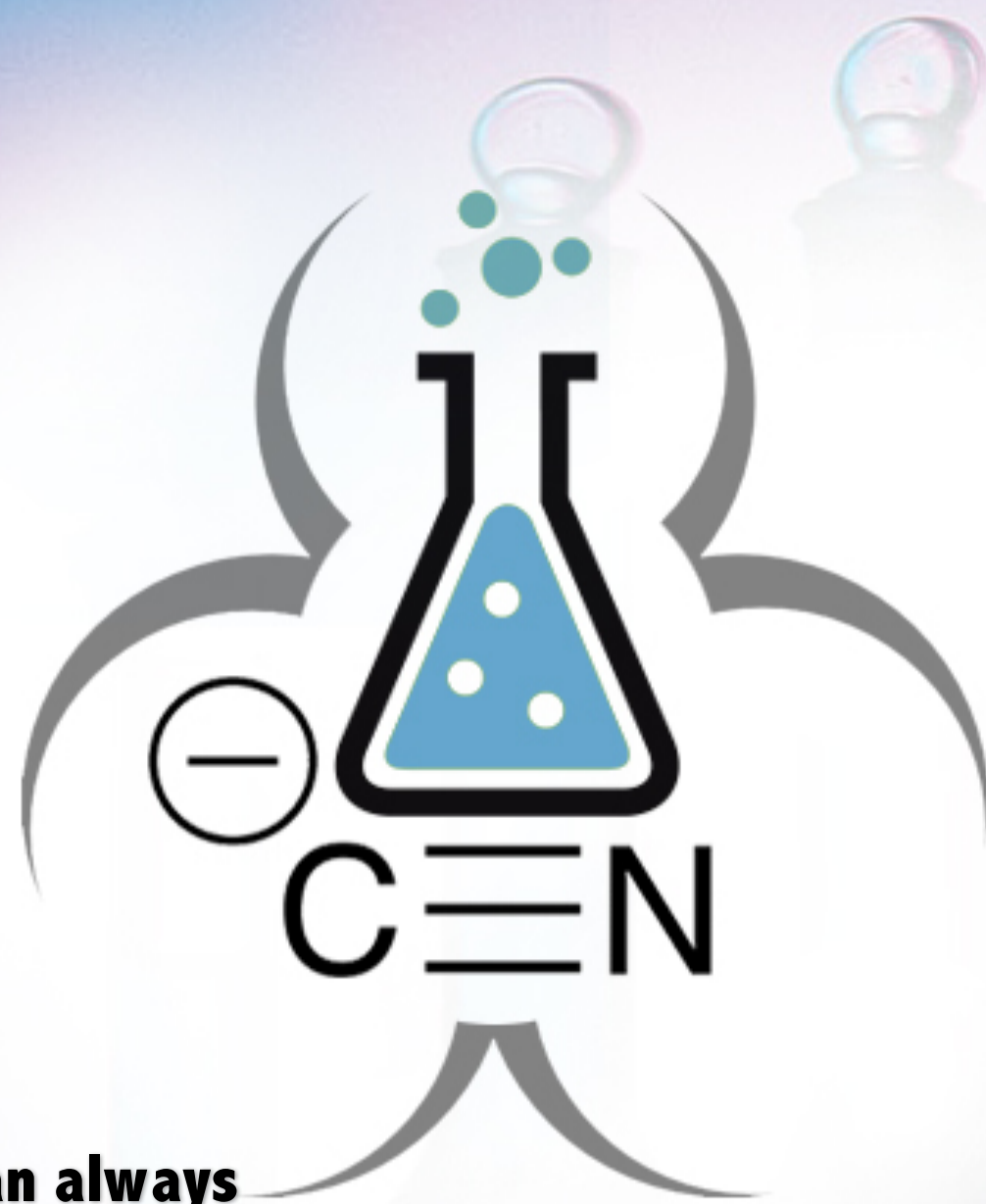
- unlike the assessment and documentation of findings, the interpretation should only be undertaken **by a doctor experienced** in such assessments.
- It is incorrectly assumed by many that sexual assaults will result in injury to the victim whether adult or child, This is incorrect and in the majority of cases medical abnormalities (in both adults and children) will be **absent**.
- The presence or absence of injuries in association with allegations of sexual assault do not by themselves indicate whether the particular activity was consensual or non-consensual, and it is essential that these facts are understood when reporting and interpreting findings.
- **Many factors may affect the severity of injury in the female.** Similar injuries may be seen in both consensual and non-consensual sexual contact.
- Some of the factors that may influence the possibility of genital injury are **age of the complainant, type of sexual activity, relative positions of the participants and degree of intoxication of either or both of the participants.**

## **Non-genital injury :**

- Marks of blunt contact (e.g. punches, kicks), restraint (e.g. ties around wrists or ankles, grip marks) and bite marks.
- Occasionally, false allegations do occur and analysis of the character and nature of the injury in the light of the accounts given is crucial in determining whether there may be any suggestion of deliberate self-harm.

# Care After Sexual Assault

- Care of those who have been sexually assaulted is most appropriately managed by those with specialist skills such as genitourinary medicine specialists who can provide the most appropriate and up to date post-assault treatment and advice. It should be the responsibility of the **examining doctor or healthcare professional** to ensure that appropriate post-assault prophylaxis against pregnancy, or HIV or other genitourinary conditions are anticipated. Counselling or psychological support may also be required to support victims. Proactive support should be offered and follow-up should be provided.



**If you have any questions You can always  
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