



Guidelines examination of victims of sexual assault harmonization of forensic and medico-legal examination of persons

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Abstract

Sexual assault is a complex situation with medical, psychological, and legal aspects. Forensic experts play a major role in terms of forensic and gynecological medical examination and evidence collection in order to maintain the chain of custody. Victims should be examined by a specially trained medico-legal examiner in order to avoid multiple examinations in the surroundings that do not meet minimum health standards. The evolution and treatment of sexual assault victims are time-intensive and should optimally be provided by a team that includes a forensic medical doctor. These guidelines will be of interest to forensic medical doctors who will have responsibility for the examination and assessment of victims of sexual violence and can be used as a day-to-day service document and/or a guide to develop health service for victims of sexual violence.

Keywords Sexual assault · European Council of Legal Medicine · Forensic evidence collection

Introduction

Sexual violence is a serious health and human rights problem in the whole world [1].

The aim of this document is to give instructions and detailed guidance for forensic medical doctors on all aspects of the medical examination of victims of sexual assaults.

One part of the guideline explains how a gynecological examination of sexual assault victims should be carried out by a forensic medical doctor. The investigation should be carried out in a professional and sensitive manner to protect the rights of the alleged victim and the suspected offender.

Careful collection of biological specimen and right interpretation of the findings are very important for the police and courts to find out the sexual offender.

These guidelines are also useful for other health care professionals, who have contact with sexual violence victims or for training health care providers [2–4].

The information presented in these guidelines is organized as follows:

- The first section gives an overview on general principles;
- In the second section are listed the detailed guidance on all aspects of the medical examination of victims of sexual violence;

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- The third section is dedicated to the collection of forensic evidence;
- The last section describes the documentation and reporting procedures.

General principles

1. Forensic and gynecological medical examination (FGME) performed by request of an authority follows the same general principles as physical assault.
2. Consent recording procedure is the same as in physical assault. The examiner must clearly explain each step of the examination process and the reasons for it. The explanation can be helped by anatomical pictogram. The patient should be reminded of the choice of refusing each part of the examination.
3. If the person refuses the examination, it is not possible to force the person to do it. The examiner informs the authority of the refusal.
4. FGME must be performed by forensic medical examiner trained to this specific procedure. It can be done in conjunction with the expert examination by a gynecologist.
5. The FGE must be performed as soon as possible after the sexual assault.
 - (a) This is extremely necessary in case of a delay under 7 days between the assault and the examination. Moreover, if the delay is under 48 h, the case must be considered as a forensic emergency because it is within this time limit that HIV post-exposure prophylaxis is indicated.
 - (b) After a delay of 7 days, the time limit for evidence collection (genetic samples, toxicological samples) has usually been exceeded.
6. In a physical assault situation, the FGME is not a therapeutic intervention.

The forensic medical examiner is in charge of recording the injuries and collecting the evidence. When there is a risk of sexually transmitted diseases or pregnancy, all the persons should be offered prophylaxis and a SOS-pill only after negative pregnancy test. The forensic medical examiner must explain the risk to the person and organize the medical consultation.

Medical examination

The aim of an objective forensic and gynecological medical examination is to describe the health status of the person and to record the injuries and the consequences of these injuries. In the end, the expert tries to understand the mechanisms of the lesions and if these injuries are or are not consistent with the

trauma history told by the person. For this, the expert needs to record not only the patient's recollection of the assault and all the lesions and their consequences but also the previous medical history of the patient.

The medical examiner must explain to the person that it is important to record everything in detail about the sexual assault even if it is upsetting to the patient, because this information is important to understand the pattern of injuries and the results of complementary analyses (toxicological or genetic results). The medical examination should contain all the following described in chapter II—“[Medical examination](#)”—physical assault:

1. Previous medical history
 - (a) Earlier diseases/surgeries/injuries, current medications
 - (b) Previous gynecological history
2. When it is possible, description of the circumstances and the manner of the assault
3. Recording the complaints
 - (a) Somatic disorders: pain, functional limitation
 - (b) Genital complaints: vaginal pain/bleeding/charge, anal pain, dysuria
 - (c) Psychological disorders: anxiety, agitation
4. General status
5. Description of the lesions (in addition to genital/anal/oral injuries)
6. Gynecological examination
 - (a) Must be performed on a gynecological couch and in the gynecological position under a direct light and, when it is possible, with colposcopy. The person must be informed of each step of the proceeding and that it may be moderately painful and that the examination can be stopped if the pain is not bearable by the person. It is important to be as gentle as possible during all examinations.
 - (b) Must include the description of sexual development including Tanner's staging
 - (c) Starts from the pubic region, continues with the vulva and the hymen (Foley balloon catheter can be used), followed by vaginal examination using a speculum, and finished by vaginal digital examination. All the injuries must be described: type of injury with a forensic vocabulary, shape and dimension of each lesion, direction and location of each lesion, the aspect of the lesion (fresh, healed, infected...)
 - (d) Presence of associated foreign material
 - (e) If it is relevant, video colposcopy may be useful; photographs with scale can be taken or sketches of the lesions can be drawn.

- (f) Samples:
- i. Samples for DNA profile of perpetrator: local samples according to the traumatic history and delay between the assault and the examination—sample for DNA victim profile
 - ii. Samples for toxicology: blood, urine, and hair samples according to the trauma history and the delay between the assault and the examination
 - iii. Samples for medical purposes and diseases diagnosis, pregnancy test, and treatment: blood test for sexually transmitted blood analysis before prophylaxis
7. Anal examination
- (a) The anal examination (and digital rectal examination) can be performed in a gynecological seat and in the gynecological position under a direct light and, when it is possible, with a colposcopy. An anoscope can be used. The anal examination can be performed with the patient lying on one side with the superior leg flexed leading to a better exposition of the anal region. The knee–elbow position on the examination table can be psychologically unacceptable by the victim. The person must be informed of each step of the proceeding and that it may be moderately painful and that the examination can be stopped if the pain is not bearable by the person. It is important to be as gentle as possible in all the exploration.
 - (b) Local samples: similar to gynecological examination chapter
8. Genital examination of a male victim
- (a) The examination of genital region is performed while the patient is lying on the examination table under a direct light. The person must be informed of each step of the proceeding and that it may be moderately painful and that the examination can be stopped if the pain is not bearable by the person. It is important to be as gentle as possible during the examination.
9. Oral cavity examination
3. Samples for medical diagnostic purposes as serologic test for STD, pregnancy test, local infectious swab, and post-exposure pre-treatment biological control test (hepatic and renal function, complete blood count) must be sent to the appropriate laboratory as soon as possible. Samples in order judicial aims must be sealed by police.
 4. Labeling of the samples
 - (a) For each sample, the labeling must mention the following: name–family name, date of birth, date of the sample, type of the sample, location of the sample for the genetic swabs. Add the name of the examiner in charge of the sampling (in case of mixture of two or more DNA profiles).
 5. Seal and storage procedure for the samples
 - (a) Must be sealed by the police and given to them. This information needs to be recorded in the medical record.
 - (b) If the samples are not sealed immediately, the labeling samples must be stored in appropriate conditions, in a locked room with a limited access to the room.
 6. The listing of the samples must be mentioned in the final report

Medical report

1. The forensic and gynecological medical examination report is written according to the local legal and jurisdictional requirements.
2. The forensic medical expert must answer the questions posed by the authority's request if they are within the boundaries of one's competence.
3. The forensic medical examination report is as important as the examination itself. The report should therefore be:
 - (a) Complete, detailed, comprehensive, and objective
 - (b) Clear and comprehensible also to non-medical readers
 - (c) Written in a logical sequence, well-structured
 - (d) Answering the questions of the request with a medico-legal opinion based on a scientific reasoning and not on personal conviction (belief)
4. The content should include the following minimum:
 - (a) Name of the authority commissioning the forensic medical examination
 - (b) The purpose of the request
 - (c) Name, qualifications, and status of medico-legal expert
 - (d) First name and surname, date of birth of the person

Samples [7]

1. Samples for DNA profile of the alleged perpetrator: local samples related to the traumatic history and delay between the assault and the examination (take a reference sample of the victim)
2. Toxicological samples: blood–urines–hairs are done when there is a suspicion of drug facilitation. Blood and urine samples are not relevant after a delay over 5 days.

- (e) The way the person was identified
 - (f) Date, place, and time of the medical examination
 - (g) Date of the report drafting
 - (h) A synopsis of the sexual trauma history (and physical trauma if associated) and circumstances given by the victim
 - (i) A list of complaints from the person
 - (j) The description of the findings of medical examination
 - (k) A list of the samples
5. The conclusion: for the victims of sexual assault, the conclusion must clearly explained:
- (a) If the injuries are consistent or inconsistent with the victim's account of the trauma
 - (b) The mechanism of the lesions if it is possible
 - (c) If the lesions are leading to functional impairment

Minor victims: similar to the adults with the same proceeding as physical assault to minors

1. General principles [5–7]
 - (a) The consent procedure is related to local legislation of the country and the circumstances of the Forensic Medical Examination [8].
 - i. If the FGME is done under a judicial request, the consent of the parents is not needed but the consent of the minor is needed if one has a maturity of mind sufficient to allow one to give a consent (teenagers).
 - ii. If the FGME is not done under a judicial request, the consent of one of the parents is needed.
 - (b) The medical examination is similar to the adult's
 - i. Previous medical history (child's health record)
 - ii. Description of the circumstances and the manner of the assault (given by the child and/or by the parents)
 - iii. Recording of the complaints and symptoms
 - iv. Medical examination
- General status, description of the lesions. It is important to explain to the child each step of the medical examination in appropriate terms. The genital and anal examination must be explained with anatomic pictures or anatomic doll.
- Specific attention must be paid on the behavior of the child, the psychological development, bladder and anal sphincteric control.
- For girls, the use of Foley balloon catheter is a good option to perform the examination of the hymen. If the hymen is

intact, the examination with speculum and digital examination are allowed only if the elasticity of the hymen has been tested by the Foley balloon catheter.

v. Hospitalization in pediatric department

- Is recommended in order to keep the minor secure when there is a suspicion of sexual violence in family circle or when there are severe injuries. The hospital time is used to set up a multidisciplinary evaluation.
 - Medical evaluation (similar to adult's)
 - Psychological evaluation
 - Social evaluation
 - vi. Samples: similar to adult's procedure
 - vii. Medical report: similar to adult's procedure. It is important to mention if the FMLE has been done in the presence or absence of the parents.

Conclusion

A patient presenting for care after sexual assault should be examined by a multidisciplinary medical team including a specially trained medico-legal examiner for appropriate constations and forensic evidence collection.

The guidelines presented in this paper were established by the Board of the European Council of Legal Medicine (ECLM) and should be of particular interest to all the forensic medical doctors involved in this field.

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