

Medico-legal findings, case progression and legal outcomes in South African rape cases: A cross-sectional study

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Medico-legal evidence, case processing and outcomes

- Health services for victims of rape are neglected internationally and efforts to strengthen them need to be guided by research evidence
- These services usually have dual aims of meeting the victim's health needs and providing evidence for legal cases
- Medical evidence is widely used in rape cases, but its contribution to case outcomes is unclear
 - Two studies from the US have found an association between ano-genital injuries and filing charges;
 - Three studies (2 US & 1 Canada) have found an association between general body injuries and case outcomes; 10 other studies did not find an association

Study aim :

- to describe the processing of rape cases by South African police and courts and the contribution of medical findings and evidence to case progression through the criminal justice system and legal outcomes

Tracking Justice

- **Setting:** Gauteng province in South Africa, which has 128 police stations
- **Study design:** retrospective review of a representative sample of rape cases in the province in 2003
- **Sample:** a random sample of 70 police stations selected with probability proportional to size and in each police station 30 rape dockets were selected using systematic sampling of all closed rape dockets that are available in the station (unless there were fewer than 30).
- **Total sample size:** 2068 rape dockets, but **1552** completed rape cases had J88s (the Justice Department's form for recording medico-legal findings) and sufficient information for inclusion in the analysis
- **Data:** data capture sheet completed from police dockets & court records (if any). Collected end 2006.
- **Access :** Police permission to access closed cases

Contents of police dockets

- **Information on the victim:**
- **Information on the perpetrator:** (if known)
- **Circumstances of the crime:** level of detail varies, often multiple witness statements provided more information. May include: what victim doing when crime happened, details of anyone else involved, where it happened, how it happened (e.g. use of weapons), what happened afterwards
- **Medical reports (on form J88) and DNA analysis report**
- **Documentation of process:** of the investigation and justice seeking
- **Case outcomes**

- **Court records:** verified case outcome

Information in the medical exam report

- Relevant history
- Appearance at time of the examination
- Mental state & evidence of drugs/alcohol
- General clinical findings on examination: injuries
- Sexual & reproductive history
- Genital examination findings
- Sexual assault kit completion and evidence of handing to police
- Conclusions drawn
- Indirectly, on the quality of the examination & documentation

- **J88s were copied out by fieldworkers and information was abstracted onto a data capture sheet by health professionals**

**Attrition in the criminal justice system
(n=1552 cases of completed rape of adults 18+ yrs
and children <18 years)**

| | Adults | | Child | |
|---|---------------|----------|--------------|----------|
| | n | % | n | % |
| Opening case | 951 | | 596 | |
| Suspect arrested or asked to appear in court | 430 | 45.2 | 341 | 57.2 |
| Charged in court | 365 | 38.4 | 284 | 47.7 |
| Trial commenced | 101 | 10.6 | 108 | 18.1 |
| Found guilty of sexual offence | 31 | 3.3 | 44 | 7.4 |
| Sentenced to imprisonment | 30 | 3.2 | 24 | 4.0 |

Attrition in handling and processing forensic evidence

| | Adults | | Child | |
|---------------------------------|--------|------|-------|------|
| | n | % | n | % |
| J88 completed & available | 951 | | 596 | |
| Forensic kit completed | 868 | 91.3 | 377 | 63.3 |
| Forensic specs sent to lab | 659 | 69.3 | 273 | 45.8 |
| Suspect's blood obtained | 84 | 8.9 | 54 | 9.3 |
| Report from forensic lab on DNA | 10 | 1.1 | 12 | 2.0 |

| Characteristics of sample | % |
|---|------|
| Age: | |
| 0-11yrs | 14.2 |
| 12-17 yrs | 24.3 |
| 18+ yrs | 61.5 |
| >1 rapist | 18.1 |
| Survivor/perpetrator relationship: relatives | 9.7 |
| current or ex-intimate partners | 13.9 |
| strangers/known by sight/just met | 39.0 |
| friend/acquaintance/neighbour | 37.4 |
| Physical/verbal resistance | 36.7 |
| Survivor was kidnapped (abducted) | 46.0 |
| Perpetrator was armed | 35.1 |
| Case reported within 72 hours | 91.3 |
| First report statement taken (quality of policing measure) | 55.9 |

Medical examination findings: adults

| | Arrest | No arrest |
|--|--------|-----------|
| Injury : none | 37.7 % | 40.5 % |
| Non-genital injury | 23.4% | 21.8 % |
| Injury to genitals with a skin tear | 23.0 % | 21.8 % |
| Non-genital & genital injury | 15.9 % | 16.0 % |

Medical examination findings: children

| | Arrest | No arrest |
|-------------------------------------|--------|-----------|
| Injury : none | 39.3% | 41.7 % |
| Non-genital injury | 4.3% | 4.3% |
| Injury to genitals with a skin tear | 51% | 46.1 % |
| Non-genital & genital injury | 5.3% | 7.9 % |

Logistic regression models of associations between medical findings, trial and conviction for a sexual offence

| | Trial commenced | | | Accused found guilty | | |
|-------------------------------------|-----------------|------------|---------|----------------------|-----------|---------|
| ADULTS | Model 1 | | | Model 3 | | |
| | OR | 95% CI | p value | OR | 95% CI | p value |
| Injury : none | 1.00 | | | 1.00 | | |
| Non-genital injury | 1.34 | 0.75-2.43 | 0.31 | 6.25 | 1.14-34.3 | 0.036 |
| Injury to genitals with a skin tear | 1.31 | 0.72-2.35 | 0.37 | 7.00 | 1.44-33.9 | 0.017 |
| Non-genital & genital injury | 1.06 | 0.51-2.23 | 0.87 | 12.34 | 2.87-53.0 | 0.001 |
| DNA report | | | | 4.27 | 0.27-66.4 | 0.29 |
| CHILDREN | Model 2 | | | Model 4 | | |
| | OR | 95% CI | p value | OR | 95% CI | p value |
| Injury : none | 1.00 | | | 1.00 | | |
| Non-genital injury | 0.66 | 0.13-3.24 | 0.60 | - | | |
| Injury to genitals with a skin tear | 1.71 | 0.92-3.19 | 0.09 | 1.70 | 0.82-3.55 | 0.15 |
| Non-genital & genital injury | 5.83 | 1.87-18.13 | 0.003 | 1.51 | 0.30-7.74 | 0.61 |
| DNA report | | | | 0.94 | 0.10-8.40 | 0.95 |

Conclusions

- The presence of ano-genital injuries did influence whether children's cases went to trial, and whether there was a conviction in adult cases
- DNA did not contribute to outcomes, perhaps because the policing system could not support the processing of samples
- Documentation of injuries is a low technology medical response to sexual assault and accessible in developing countries
- This study shows that with good training of health providers to provide solid basic post-rape health care medical system can contribute positively to justice seeking for rape survivors.