

The Unintended Consequences of Medicalizing Rape

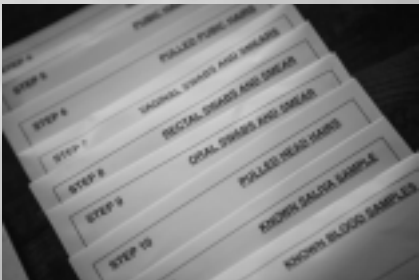
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Two Studies




- Fieldwork:
 - Baltimore, MD 2002-2006:
 - The clinic
 - Milwaukee, WI 2010-2014:
 - The courts

The Medico-Legal Sexual Assault Examination



STEP 6	PULLED FURIN SWABS
STEP 7	VAGINAL SWABS AND SMEARS
STEP 8	RECTAL SWABS AND SMEARS
STEP 9	ORAL SWABS AND SMEARS
STEP 10	PULLED HEAD HAIR
	KNOWN SALIVA SAMPLE
	KNOWN BLOOD SAMPLE

What happens in the clinic?



- The focus can shift from patient care to evidence collection:
- Is the evidence the real patient?

Unintended Consequences: Anti-Rape Activism and Policy Goals

- 2006 Violence Against Women Act compliance rules require access to medico-legal examination
- Many calls and federal dollars to “end the rape kit backlog”

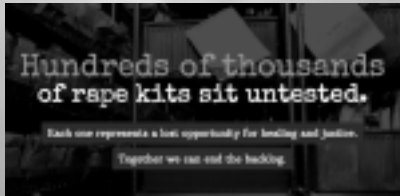


Image from Joyful Heart Foundation

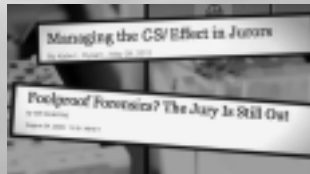
What happens in the courts?



Studies of the use of forensic evidence in prosecution of all violent crime (including homicide, robbery, and sexual assault), indicated that there is no correlation between the inclusion of evidence and trial outcomes.

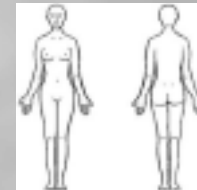
Why doesn't medico-legal evidence make a difference?

- Typical fact patterns of sexual assault:
 - Perpetrator and victim know each other; no ID needed
 - Delayed disclosure, particularly with children
- The way the “CSI Effect” actually works



But outcomes are not the only impacts...

- **Even if outcomes have not changed, the process of the trial itself has changed, with medico-legal examination introduced at trial:**
 - Whose body is interpreted by medical and nursing experts, and whose body is left uninterpreted?
 - At trial, we treat victimized bodies and victimizing bodies in different ways.



Trials become sites of normalizing practice.

- Prosecutor:
- "...you will hear from [the SANE nurse]... the vagina is meant to stretch, and the anus. The vagina is meant to stretch to have babies. The anus is meant to stretch--- it's the type of orifice it is, to have bowel movements. That's one of the reasons there normally are not injuries in sexual assault cases. However, in this case, you will hear of the multiple injuries that _____ had."

Nurses characterizing the vagina

- "made to have sexual intercourse often"
- "lubricated"
- "very stretchy"
- "similar to the membrane of the mouth-- a mucus membrane"
- "like a scrunchy"
- "able to accommodate something the size of a watermelon"
- "a self-cleaning vessel"



Conclusions

- While medico-legal evidence has not changed outcomes of criminal justice investigations, it has changed both the focus of the nursing care intervention, and the processes of adjudication. Healing and justice are both at stake.

• Questions?

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