



## EUROPEAN WOMEN'S NETWORK AGAINST SEXUAL VIOLENCE

presents you **Prof. Slobodan Savić** from Serbia,  
our member of Ethics Committee

**Monday, January 16, 2023 from 14.00 to 16.30 (CET)**

**LECTURE: CRIMINAL OFFENCES AGAINST  
SEXUAL FREEDOM WITH A SPECIAL EMPHASIS  
ON SEXUAL VIOLENCE AGAINST CHILDREN**



Prof. Slobodan Savić, MD, PhD, has been a permanent court expert for the field of forensic medicine, certified Swedish specialist in forensic medicine. For decades he worked at the Institute of Forensic Medicine in Belgrade as well as a full time professor at the Belgrade University School of Medicine for the subject of Forensic Medicine (head of teaching staff in English) and as a lecturer in Legal Medicine at the Faculty of Law. For over a decade, Slobodan served as a member and the president of the Republic of Serbia Government Ethics Committee.

## **CONTENT:**

- Significance and general characteristic of criminal offences against sexual freedom
- Sexual violence against children
- Criminal offences against sexual freedom in the Republic of Serbia Criminal Code
- Proving of criminal offences against sexual freedom in investigation and criminal procedure
- Physical examination of victims – extragenital and genital injuries
- Physical examination of offenders
- Significance of detection, identification and forensic analysis of biological traces
- Significance of chemical toxicology analysis
- Case studies from expertise practice
- Q & A

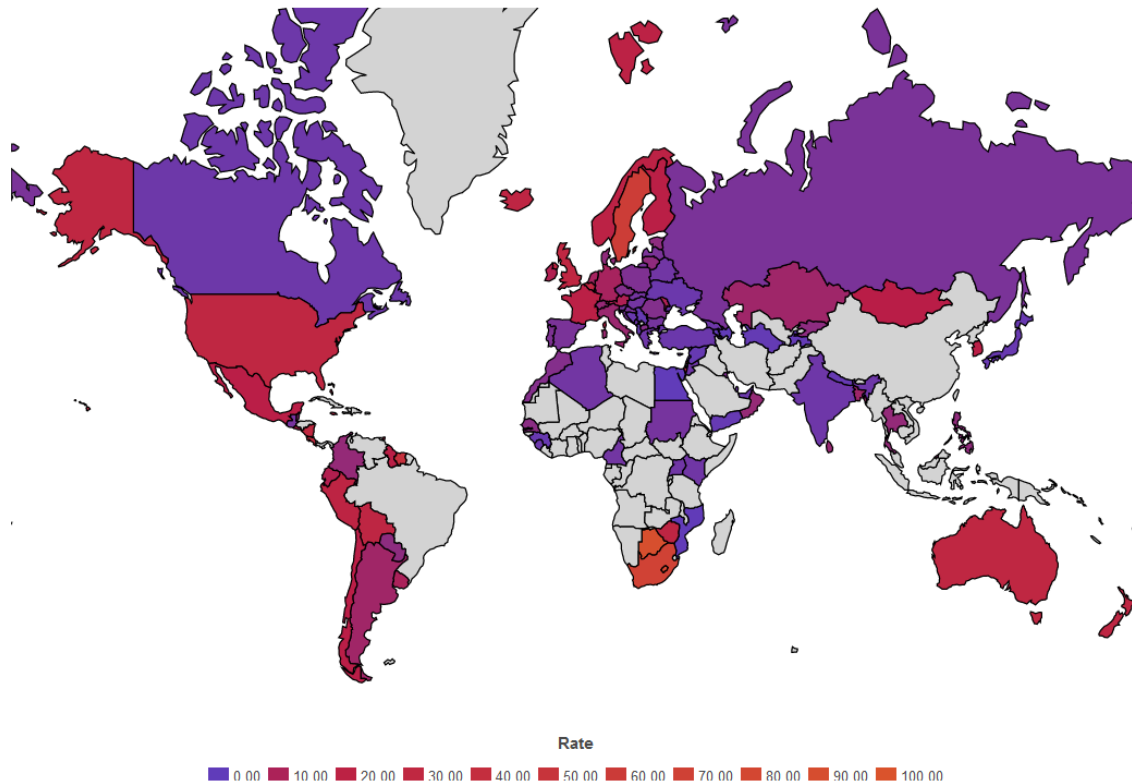
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# Sexual violence knows no boundaries

It is **ubiquitous** - present in every culture, in every social class and in every country in the world, with different frequency

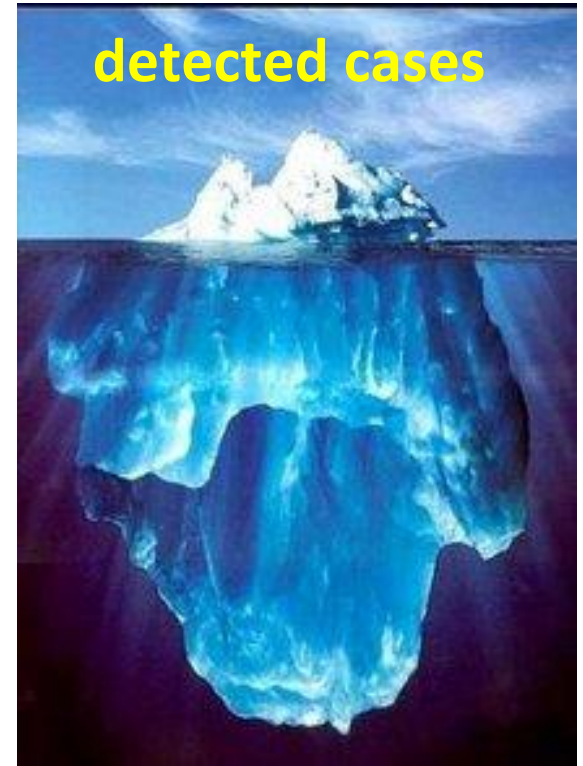
Rape Statistics by Country 2023



- A **significant majority of victims** are **women**, but **men and children of both sexes** may also be victims of sexual violence
- The most frequent **perpetrators** of sexual violence are **men**
- In about **50%** of cases, the victim and the perpetrator (or at least one of the perpetrators) **knew each other** beforehand (this percentage is even higher in cases of sexual abuse of children)

Accurate statistics regarding rape  
are notoriously difficult to obtain  
Rape goes grossly underreported  
in many countries

**detected cases**  
**the tip of the iceberg**



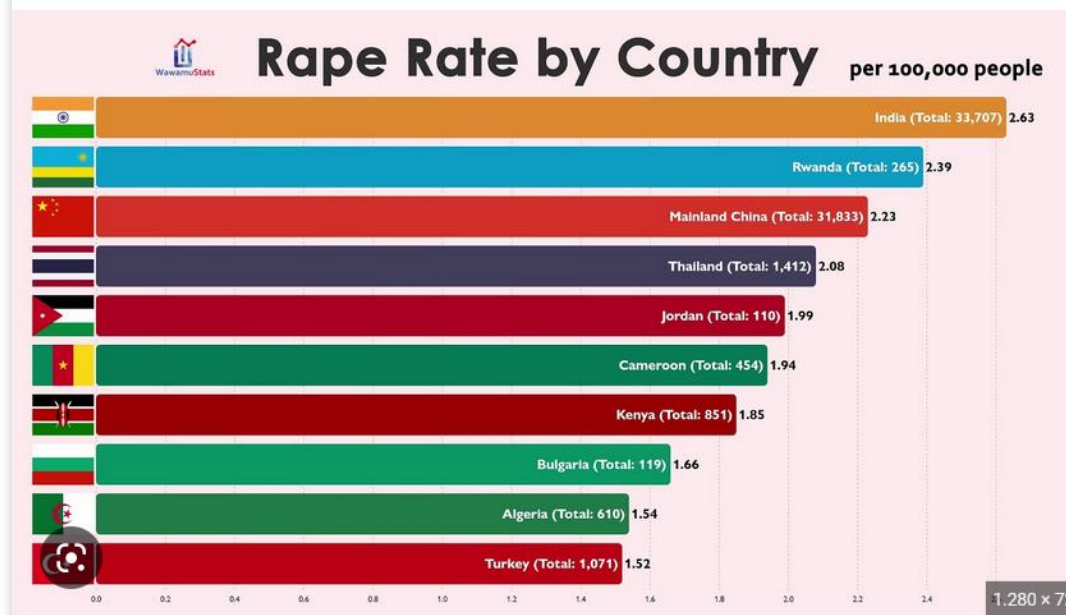
- Although these crimes are subject to **mandatory reporting** - a large number of cases of sexual violence remain unreported - the **victim does not report it**

## Reasons for this decision:

- embarrassment, victim shaming
- fear of reprisal from the rapist
- fear of how the victim's own family will react

Many countries' laws against sexual assault are insufficient, inconsistent, or not regularly enforced. This can leave **the victim convinced that getting law enforcement involved will do no good**, and in some cases could actually make things worse instead of better (long lasting court procedures – **secondary victimization**)

- It is estimated that approximately **35% of women** worldwide have experienced sexual harassment in their lifetime
- In more than one-third of countries, at least 5% of young women reported experiences of sexual violence in childhood





- However, in most countries with data available on rape (including the U.S.), fewer than 40% of those women seek help - and fewer than 10% seek assistance from law enforcement
- In Serbia, of all reported cases of sexual violence, in approximately 10% to 30% an indictment and court proceedings are brought against the perpetrator

**PROVING IS NOT EASY!**

Bearing in mind that not all cases of sexual violence are reported and that is difficult to prove them in court proceedings, it follows **that a significant number of perpetrators of these acts never receive the appropriate and deserved legal punishment**

- In the U.S., for instance, it is estimated that only 9% of rapists are prosecuted, and only 3% spend time in prison

## 97% OF RAPISTS WALK FREE

децембру, у лифту зграде у Источној капији Београда, на Коњарнику, више од сата иживљавао над А. Г. (45), а побегао је кад је један од станара чуо буку.

Нападач је дошао у зграду двадесетак минута пре злочина. Ушао је у лифт и возио се горе-доле све док на 12. спрату није ушла А. Г. Према незваничним информацијама, на 10. спрату он је заглавио лифт, а затим се окренуо према жртви и рекао јој: „Мало сам попио, морам неког да силујем!”

Жена је покушала да се одбрани, али ју је нападач оборио на под. Није теже повређена, али је претрпела велики шок. **Б. В.**



Снимак силоватеља испред лифта

Footage of the rapist in front of the elevator  
He sexually abused A.G. (45) for more than an hour, ran away  
when one of the tenants heard the noise

# SEXUAL VIOLENCE AGAINST CHILDREN

- One of the most unsettling of children's rights violations. As such, it is the subject of dedicated international legal instruments aimed at protecting children against its multiple forms.
- Acts of sexual violence, which often occur together and with other forms of violence, can range from direct physical contact to unwanted exposure to sexual language and images.
- 'Sexual violence' is often used as an umbrella term to cover all types of sexual victimization.
- Children of every age may be victims of sexual abuse, and girls are particularly vulnerable.

# SEXUAL VIOLENCE AGAINST CHILDREN

- Every year, millions of girls and boys around the world face **sexual abuse** and **exploitation**.
- At least 120 million girls under the age of 20 – about 1 in 10 – have been forced to engage in sex or perform other sexual acts, although the actual figure is likely much higher.
- Children may be subjected to sexual abuse or exploitation at **home**, at **school** or in their **community**.
- The widespread use of **digital technologies** can also put children at risk.

# SEXUAL VIOLENCE AGAINST CHILDREN

Many victims of sexual violence, including millions of boys, never tell anyone.



- Most often, abuse occurs at the hands of **someone a child knows and trusts.**
- Roughly 90% of adolescent girls who report forced sex say that their first perpetrator was someone they knew, usually a boyfriend or a husband.

# **CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM IN THE REPUBLIC OF SERBIA CRIMINAL CODE**

**Article 178. Rape**

**Article 179. Copulation with a Helpless Person**

**Article 180. Copulation with a Child**

**Article 181. Sexual Intercourse through Abuse of  
Position**

**Article 182. Prohibited Sexual Acts**

**Article 182a. Sexual harassment**

**Article 183. Procurement of Sexual Services**

**Article 184. Mediation in Prostitution**

# **CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM IN THE REPUBLIC OF SERBIA CRIMINAL CODE**

**Article 185. Exhibition, Procurement and Possession  
of Pornographic Materials and Exploiting  
Juveniles for Pornography**

**Article 185a. Incitement of Minors to Attend Sexual  
Acts**

**Article 185b. Abuse of Computer Networks or other  
Technical Communication Means for  
Committing Criminal Offences against  
Sexual Freedom of Juveniles**



## Sexual act

- **voluntary** - with the conscious and deliberate **consent** of both partners (excluding children)



- **violent** - **against the will** of one of the partners - an important characteristic of these acts is that sexual contacts are made **without** the victim's **consent**, either with or without her active opposition and resistance



## RAPE

An **unlawful act** that involves **sexual intercourse** carried out **forcibly** or **under threat** of injury **against a person's will**

**Unlawful** means **without valid consent** for sexual intercourse, either because the person **did not give any consent** at all, or because her **consent was invalid** (she was too young, or her mental state was deficient).

## Article 178. Rape

1) **Whoever** by using of **force** or a **threat of direct attack** against at person's body or the body of another **forces** that person to **copulation** or an **equivalent act**, shall be punished with **imprisonment of from three to twelve years.**

According to the current Criminal Code of the RS, **both the victim and the perpetrator of rape can be female or male** (in earlier versions, the victim was exclusively a woman, and the perpetrator was a man)

**It is an indisputable fact that in the vast majority of cases of rape, the victim is a woman and the perpetrator is a man**

## Copulation

insertion of the penis into the vagina  
**ejaculation of semen is not relevant**

## Equivalent act to copulation

all actions by which the perpetrator satisfies his sexual urge on the body of another person in a manner **similar to sexual intercourse**: penetration of the penis into the mouth or anus, penetration into the mouth or anus with other parts of the body (tongue, finger/fingers), penetration into these body openings with an object; contact of the perpetrator's mouth with the victim's genitals

# **Coercion** - by application

- **force**
- **threat**

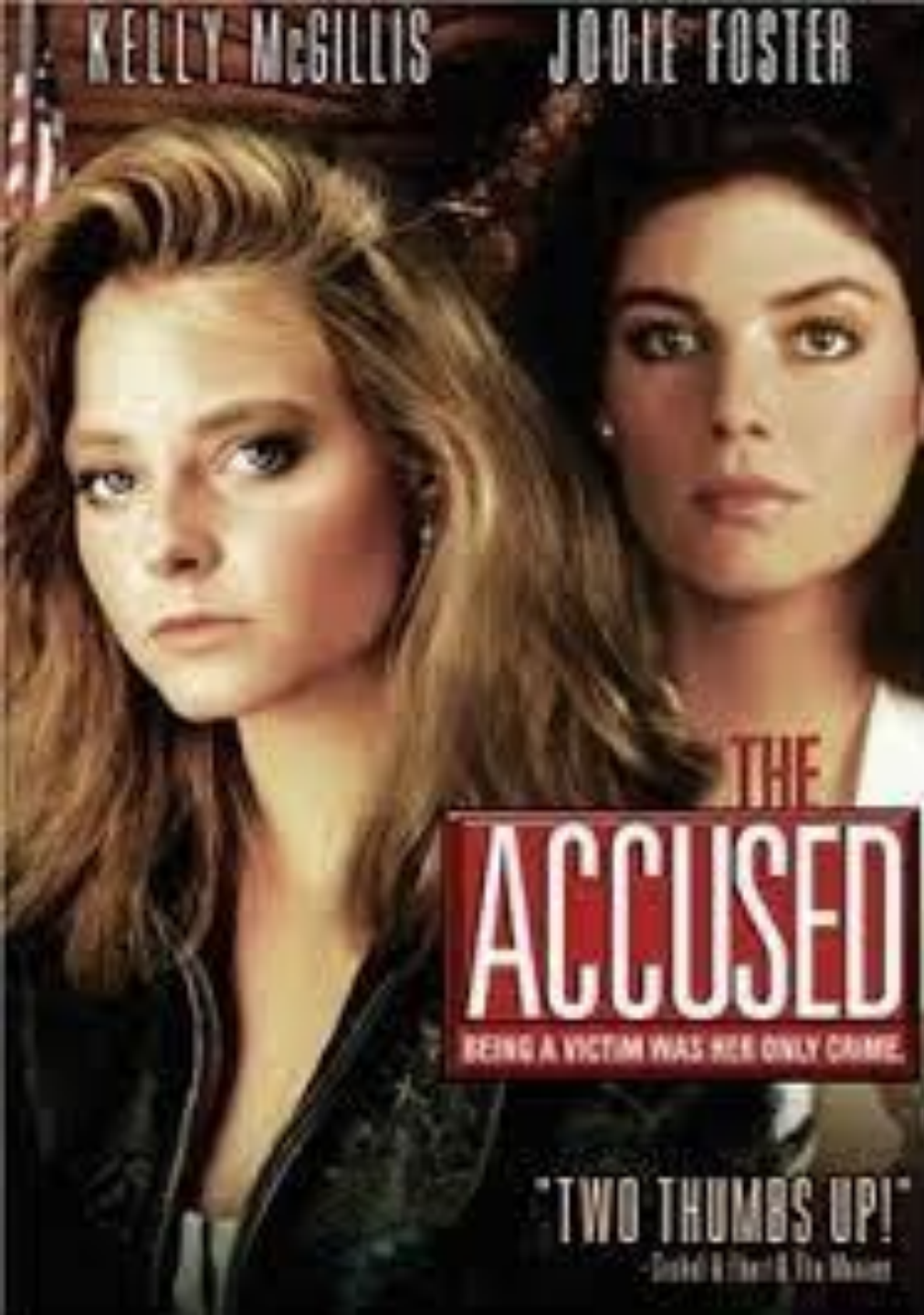


## **Use of force** - in various ways

slapping, hitting, squeezing, knocking down, trampling, etc.

The **alleged contribution of the victim to the rape** is often mentioned, as a kind of justification - lascivious and challenging behavior, "what she was looking for in his apartment"...





Accused



## **Use of force - disabling the victim**

- **physical** - tying, holding, blows to the head that cause unconsciousness
- **psychological** - administration of alcohol, drugs and medicines (psychoactive substances) - **drug facilitated sexual assault**

Article 112. Criminal Code

(12) **Force** shall also mean use of **hypnosis** or **means of intoxication** with the objective to bring someone against his will into a **state of unconsciousness** or **make powerless to resist**.



SILOVATELJ IZ LESKOVCA NAPAO U ZAJEČARU

# Drogirao, pa silovao nepokretnu devojkicu

**N**epokretnu Zaječarku T. D. (31) silovao je muškarac star oko 50 godina, a silovatelj je prethodno devojkicu, njenu majku i očuha uspavao narkotikom koji je sipao u sok od narandže.

SUZANA BOŽINOVIĆ  
Zaječar

Silovanje se dogodilo 5. decembra 2012, ali je zaječarska policija istragu silovanja otvorila tek preksinoć. Sanja Dimitrijević, portparol zaječarske policije, navodi da se istražuje da li je u istrazi o silovanju bilo eventualnih propusta službenika MUP-a. O svemu govori majka (54) silovane devojkice M. D., koja teško hođa i sa porodicom živi od socijalne pomoći.

Tek preksinoć su policajci odveli čerku na ginekološki pregled, dva meseca posle silovanja - ogorčena je majka. Silovatelj je toga dana, oko 19 sati, pozvao M. D. i predstavio se kao Zoran Jovanović, vojni policajac, koji je tek premešten iz Niša, pa bi da svrati,



Žrtva: Nepokretna T. D.

## POKRAO I STANODAVCA

Na identičan način nedavno je pokraden i stanodavac iz Zaječara. On je dao oglas da izdaje stan, a prevarant je došao, glumio da je zainteresovan, a u ruci je nosio sok sa narkotikom. Kada je vlasnik stana zaspao, ukrao mu je telefon, laptop, novac i nakit. Vlasnik stana je spavao punih 36 sati.

upozna se sa njima jer ovde nema nikoga.

Stavi za kafu. Dolazim - kazao je „vojni policajac“, i nakon 15 minuta se pojavio na kućnom pragu porodice T. D. noseći kafu i sok od narandže.

Upoznali su se s neznancem za koga su verovali da je novi

komšija. Zatim je silovatelj ponudio sok radi „boljeg upoznavanja“. Pričao im je da je usamljen, da su mu potrebni prijatelji... Ali, zbog narkotika u soku cela porodica je zaspala. Probudili su se tek u osam ujutru.

Otvorila sam oči, a kapci mi teški. Bila sam u krevetu, a uspavao me je dok sam sedela sama u kolicima kraj stola. Bila sam polugola. Krevet u neredu. Znala sam da me je silovao - govori Tatjana.

Lažni vojnik je iz kuće ukrao mobilne telefone, kašike, tanjire, viljuške, 5.000 dinara, odneo je čak i porodičnu ikonu. Ukućani su odmah pozvali policiju.

Došla su dvojica uniformisanih policajaca. Nisu čak ni uvidaj izvršili. Nisu hteli ni posteljini da odnesu, da čerku odvedu na pregled kod ginekologa - navodi majka.

Policija je, međutim, tek preksinoć došla u kuću silovane devojkice. Ponedli su fotografiju osumnjičenog, a ukućani su ga prepoznali. Ovaj napasnik iz okoline Leskovca, koji je zbog krađa počinjenih posle omamljivanja žrtava, u zatvoru je proveo 10 godina.

He drugged and then raped an immobile girl

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sok od narandže.

A motionless woman (31) was raped by a man aged around 50 years, the rapist previously put the girl and her mother and stepfather to sleep with a narcotic that he poured into orange juice

## Use of the threat

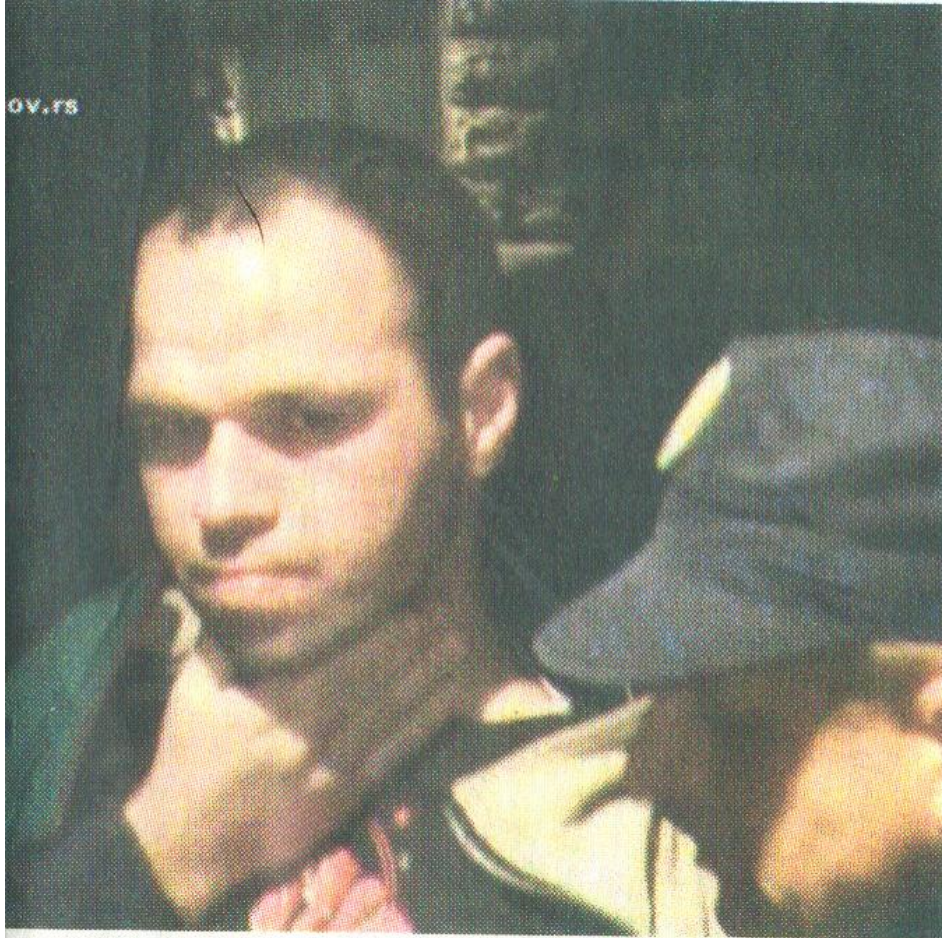
- Obvious and imminent danger that the abuser poses to the **life and body of the victim or a person close to her**
- The aim of the threat is to frighten the victim so that she does not resist

**The absence of injuries on the body of the victim and the attacker does not rule out rape**

# Use of the threat

- **assessment** of the existence and character of the danger is within **the jurisdiction of the court**
  - psychiatric examination of the victim
  - circumstances of the case (finding the knife)





17.12.2009.

Saša Mega (30) was arrested on suspicion of intercepting girls and forcing them to have sex by threatening them with a knife.

**A knife was found with him.**

## **Article 178. Rape**

(3) If the offence referred to in paragraphs 1 and 2 of this Article resulted in **grievous bodily harm** to the person against whom the offence was committed, or if the offence is committed by **more than one person**, or in a **particularly cruel or particularly humiliating manner**, or against a **juvenile**, or the act resulted in **pregnancy**, the offender shall be punished with imprisonment of from five to fifteen years.

**QUALIFIED (SERIOUS) FORMS  
OF CRIMINAL OFFENSE OF RAPE**

## **Qualified (serious) forms of the criminal offense of rape**

- **serious bodily injury** to a rape victim
  - committed by **several persons**
  - a **particularly cruel or particularly humiliating manner**
  - **against a minor** - a person who has reached the age of 14 but has not reached the age of 18
  - **pregnancy** of the victim                      **5 to 15 years in prison**
-



децембру, у лифту зграде у Источној капији Београда, на Коњарнику, више од сата иживљавао над А. Г. (45), а побегао је кад је један од станара чуо буку.

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Footage of the rapist in front of the elevator

He sexually abused A.G. (45) for more than an hour, ran away when one of the tenants heard the noise

# “Politika” 25.05.2010.



Миломир Ненадовић

## Серијски силоватељ добрио 20 година затвора

Виши суд у Београду осудио је јуче на 20 година затвора Миломира Ненадовића, одговорног за силовање у лифту зграде у Устаничкој улици у Београду у децембру прошле године, стоји у извештају Танјуга.

Ненадовићу је изречена јединствена казна затвора од 20 година због „силовања на понижавајући начин”, два покушаја силовања и једне крађе. Пресудом судског ве-

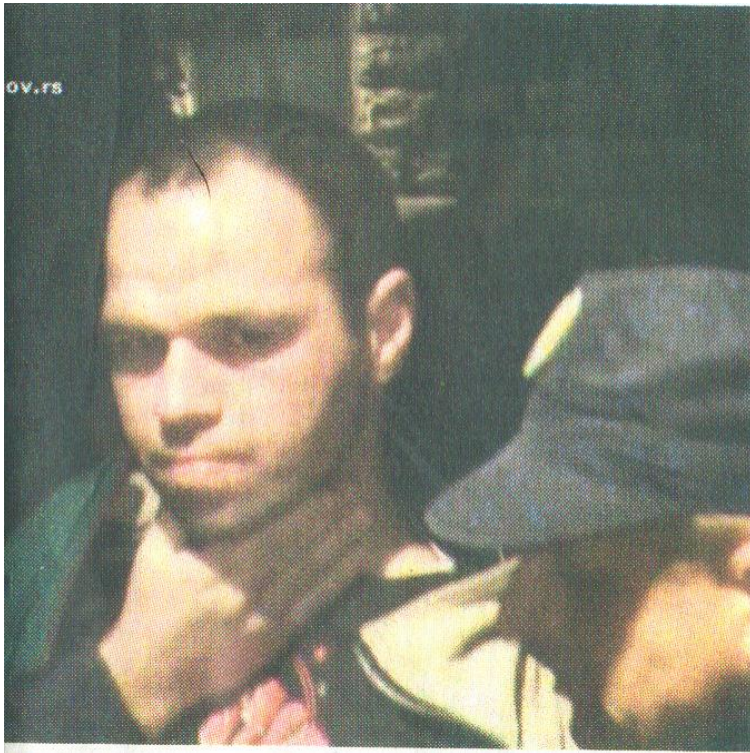
ћа продужен му је притвор, а осуђени има право жалбе у року од 15 дана од пријема писаног отправака пресуде.

Кривичним закоником Србије, за силовање је забрањена казна од две до 15 година затвора, а недавним изменама закона установљено је правило да судови не могу да изричу казне испод законског минимума.

Подсетимо, осуђени се прошле године, у

Ненадовићу је изречена јединствена казна затвора од 20 година због „силовања на понижавајући начин”, два покушаја силовања и једне крађе. Пресудом судског ве-

**Serial rapist sentenced to 20 years in prison**  
sentence for one rape in a humiliating manner, two attempted rapes and one theft



17.12.2009. Saša Mega (30) was arrested on suspicion of intercepting girls and forcing them to have sex by use of knife. A knife was found with him.

**Multiple returnee in the commission of this criminal act**

He committed the first rape in 1996 at the age of 17, in 1999 he repeated the same crime, and in 2004 he was **sentenced to 4 years in prison** for rape in a brutal and humiliating manner (previously the sentence was from **3 to 15 years** in prison).

**Disputed attitude of the judiciary**  
inadequately small sentences

# Саша Мега у притвору

Окружни суд у Београду одредио је јуче притвор до 30 дана Саше Меги (30) из Београда, осумњиченом за четири силовања у главном граду. За разлику од исказа датог полицији, у коме је признао сва силовања која му се стављају на терет, Мега је јуче на саслушању код истражног судије променио исказ и признао да је 21. децембра силовао М. Г. (21) у Делиградској улици у центру Београда, а два дана касније и Ј. Ј. (20) у Херцеговачкој улици код Главне железничке станице у Београду.

ма, Мега је признао и да се сексуално иживљавао над једном женом на Дорћолу и у близини Панчевачког моста, а негирао да је силовао жену у Новом Београду, за шта га полиција сумњичи. Мега се на саслушању код истражног судије правдао да је био пијан и да се не сећа детаља силовања.

Кривичним закоником Србије за силовање је забрањена казна од две до 15 година затвора, а недавним изменама закона установљено је правило да судови не могу да изричу казне испод законског минимума. М. А.

Према незваничним информација-

## Батић: Хемијска кастрација је решење

Посланик Демокришћанске странке Србије Владан Батић најавио је јуче да ће предложити Скупштини да се по хитном поступку измени Кривични законик увођењем хемијске кастрације за вишеструке силоватеље и педофиле. Батић тврди да је потребно направити и јавно објавити регистар силоватеља и педофила, а „повратницима уградити микрочипове да би се пратило њихово кретање”. Он је навео да се такве казне примењују и у развијеним земљама и да су, на пример у Америци, силоватељи често осуђивани на доживотну робију. Бета

# Погубљен сабљом због силовања

Јеменски држављанин осуђен на смрт одсецањем главе јер је признао да је крив за силовање најмање две жене

Ријад – Један Јеменац, који је признао да је крив за силовање, погубљен је јуче у региону Џеде, саопштило је саудијско министарство полиције.

Јеменски држављанин осуђен је јер је силом био упао у једну кућу где је силовао супругу једног Саудијца кога је претукао, као и зато што је силовао

још једну жену, навело је министарство у саопштењу, додајући да се ради о „повратнику”, односно да је Јеменац и раније починио силовања.

Јеменац је погубљен одсецањем главе сабљом. Његовим погубљењем број осуђених на смрт у Саудијској Арабији од почетка године попео се на 67.

Прошле године у тој земљи погубљене су 102 особе, а 2007. погубљено их је 153.

Силовање, убиство, издаја, кријумчарење дроге и крађа уз употребу оружја су у Саудијској Арабији злочини за које је забрањена смртна казна. Бета-АФП

Ideas about  
chemical castration  
of returning rapists  
Executed by saber  
for rape



## **Article 178. Rape**

(4) If the offence referred to in paragraphs 1 and 2 of this Article results in the **death of the person** against whom it was committed or is committed **against a child**, the offender shall be punished with imprisonment of a minimum of ten years or **life imprisonment**.

## Qualified (serious) forms of the criminal offense of rape

- **serious bodily injury** to a rape victim
- committed by **several persons**
- a **particularly cruel or particularly humiliating manner**
- **against a minor** - a person who has reached the age of 14 but has not reached the age of 18
- **pregnancy** of the victim      **5 to 15 years in prison**

- 
- against a **child** - a person who has not reached the age of 14
  - **death** of the victim

**at least 10 years in prison or  
LIFE IMPRISONMENT**

Authorities in India have officially brought charges against five men for the **brutal gang rape** of a 23-year-old woman who was attacked along with her husband on a bus in New Delhi on December 16, brutally raped and **died** due to the sustained injuries a few days later. Authorities say they will seek the **death penalty**. The sixth attacker is under the age of 18 and will be tried in juvenile court. In protests across India, protesters demanded tougher rape laws, police reform and a change in attitudes towards women in society.



# The importance of a medical examination to prove the qualified form

- serious bodily injury – **qualification**
- particularly cruel or particularly humiliating manner - **character of injuries**
- against a minor or a child - **estimation of the victim's age** (often in the case of victims of human trafficking)
- pregnancy - **determination of pregnancy**
- death of the victim - **forensic autopsy**



- Sexual violence results in severe physical, psychological and social harm.
- Victims experience an increased risk of HIV and other sexually transmitted infections, pain, illness, unwanted pregnancy, social isolation and psychological trauma (depression, post-traumatic stress disorder, suicidal tendencies).
- Some victims may resort to risky behaviours like substance abuse to cope with trauma.
- As child victims reach adulthood, sexual violence can reduce their ability to care for themselves and others.

In women who are victims of rape, there is a **risk of unwanted pregnancy** if the woman was in the reproductive period and does not use adequate contraception, and if during regular monthly cycles violence occurred around half of the cycle with genital contact between the victim and the assailant and ejaculation

- postcoital contraception
- pregnancy test and monitoring

## Rape combined with other crimes

- **physical injuries**
- **murder** – ordinary or qualified

- common ways:

**smothering** (pressure of the hand on the nose and mouth)

**throttling** (squeezing of the neck with a hand or hands)



S 874/94  
Unknown killer  
saleswoman (41)  
**combined asphyxiation  
death:** smothering and  
throttling  
**sperm found in vagina  
and on thigh skin**

## **Article 179. Copulation with a Helpless Person**

(1) Whoever **copulates** with another or commits an **equivalent act** by **taking advantage of such person's mental illness, mental retardation or other mental disorder, incapacity or some other state** of that person due to which the person is **incapable of resistance**, shall be punished with **imprisonment of five to twelve years.**

**Taking advantage of the victim's powerlessness,  
which makes her unable to resist**

there is no mention of the use of force

# Taking advantage of the victim's powerlessness

- mental illness
- retarded mental development
- other mental disorder - temporary mental disorder (influence of alcohol and drugs - partying)



## Taking advantage of the victim's powerlessness

- physical infirmity – palsy, comatose state
- any other condition due to which the person is incapable of resistance



## Medico-legal expertise

- determination of rape or an act equivalent to it  
- as in the case of rape
- objective determination of the mental and/or physical weakness of the victim - **psychiatric and physical examination**
- whether the perpetrator could or had to notice that the person was in a state in which sexual contact with him was prohibited



## Article 180. **Copulation with a Child**

- (1) Whoever **copulates with a child** or commits an **equivalent act** against that child shall be punished with **imprisonment from five to twelve years.**
- (2) If the offence referred to in paragraph 1 of this Article results in **grievous bodily harm** to the child against whom the act was committed, or if the act committed by **several persons**, or the act resulted in **pregnancy**, the offender shall be punished with **imprisonment of from five to fifteen years.**
- (3) If the offence referred to in paragraphs 1 and 2 resulted in the **death** of the child, the offender shall be punished with **imprisonment of a minimum of ten years or **life imprisonment.****

## Article 112. CC RS

- (8) A person who has not reached the age of fourteen is considered **a child**.
- (9) **A minor** is a person who has reached the age of fourteen, but has not reached the age of eighteen.
- (10) A person under the age of eighteen is considered **a minor person**.

- A **child** is considered a person who **has not reached the age of 14**
- Copulation with a child – **even without the use of force**
- Due to physical underdevelopment, children are **unable to resist** and due to mental immaturity, they are **unaware of their actions**

**ANY SEXUAL ACT WITH A CHILD  
(VOLUNTARY OR FORCED)  
IS A CRIMINAL OFFENSE**

- It is important to emphasize that in small children, whose growth and full anatomical formation of the sexual organs have not yet been completed, attempts to fully penetrate the vagina or anus with the penis, even when the attacker did not apply force, most often lead to visible and significant injuries due to the disproportion in size between the penis of the attacker and the body openings of the child.
- In precocious girls who look older - the usual question during the court procedure is **whether the defendant could have known her age**

76-year-old Roman Polanski was **arrested** on September 26, 2009. on the basis of an American warrant while arriving at the film festival in Zurich, where he was supposed to receive a lifetime achievement award.



Polanski was tried in the US in 1978 **for having sex with a 13-year-old girl**, but fled before the verdict.

The US is demanding that Polanski be extradited for a crime that carries a **maximum sentence of two years in prison under US law**.

In the CC of Serbia up to 12 years

# **PROVING CRIMINAL OFFENSES AGAINST SEXUAL FREEDOM IN COURT PROCEEDINGS**

## **Proving sexual assault**

- **Circumstances of the case** - investigative actions
- **Examination of the victim**
- **Identification and examination of the perpetrator(s)**

# Tasks of clinical forensic examination of victims of crimes against sexual freedom

1. Determination and documentation of physical **injuries** - description, photography, classification, qualification
2. Determination of a **copulation** or an **act equal** to it
3. Provision of material for traceological analysis - **biological traces**
4. Provision of samples for **toxicological analysis** - influence of alcohol, drugs and medicines
5. Provision of screening materials for **blood and sexually transmitted infections**
6. Determination of **psychological trauma**

# PHYSICAL EXAMINATION OF THE VICTIM

The examination findings and indications of rape will vary and depend on the following factors:

- age of the victim
- the time interval since the attack
- previous sexual intercourse
- previous pregnancies, miscarriages and births
- first aid done to the victim
- vaginal douching
- bathing
- changes of clothing



# PHYSICAL EXAMINATION OF THE VICTIM

- **do not bath** after the act of rape
- **do not change clothes** or take them with you
- **The examination should be done as soon as possible**
  - to preserve biological traces
  - that the injuries would not disappear - they are usually slight and quickly pass without a trace (bruises, abrasions and contusions of the skin and mucous membranes)

- The time interval elapsed from the committed sexual violence to the examination of the victim is critical for the findings, especially in relation to injuries of the genital organs
- If the examination is not performed within the **first 72 hours**, the probability that genital injuries will be documented is significantly reduced - injuries on the mucous membranes of the genital organs heal very quickly (biological traces may disappear)

РЕПУБЛИКА СРБИЈА  
ВИШИ СУД У БЕОГРАДУ  
К.бр. /2011  
Дана, 29.11.2011. године  
Београд  
Савска бр.17-а

Court order for an expertise  
of the victim's injuries  
**7 years after the alleged rape**

### НАРЕДБУ

Одређује се вештачење телесних повреда оштећене Зл  
А, које је задобила приликом извршења кривичног дела  
силовања дана 08.10.2004. године, а на основу медицинске документације  
у списима предмета.

Ово вештачење се поверава проф др Слободану Савићу,  
специјалисти судске медицине, који је дужан да у року од 30 дана од дана  
пријема наредбе достави налаз и мишљење у довољном броју примерака  
за суд и странке.

Председник већа-судија  
М с.р.

За тачност отправка тврди и оверава:



The primary clinical forensic assessment of complainants and suspects of sexual assault should only be conducted by **doctors and nurses who have acquired specialist knowledge, skills**, and attitudes during theoretical and practical training

# CONTEMPORARY FORENSIC EXPERTISE IN CRIMINAL OFFENSES OF SEXUAL CRIMINALITY

Dr. Đorđe Alempijević

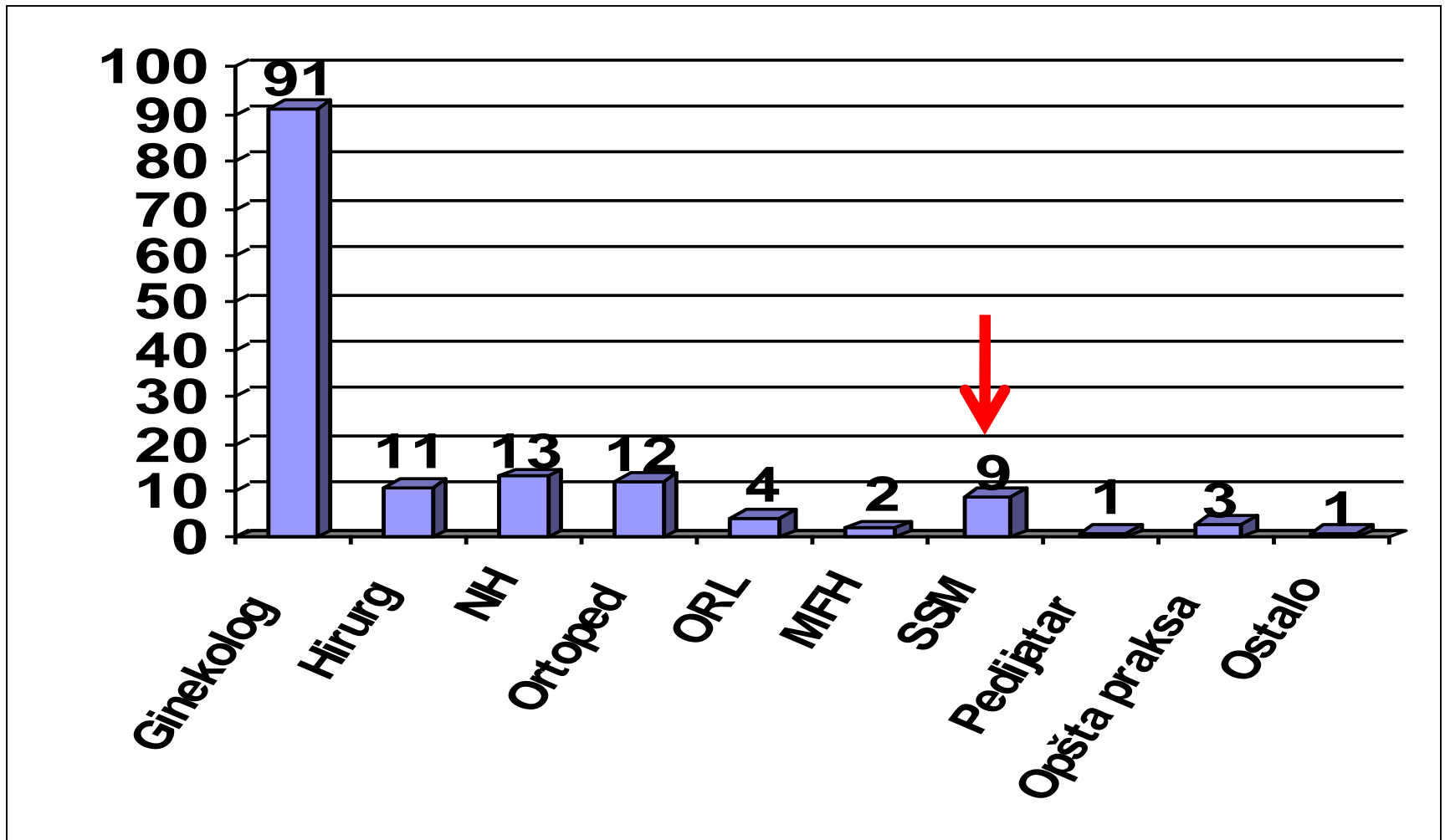
Doctoral dissertation, Faculty of Medicine in  
Belgrade, 2005.

Mentor: Prof. Slobodan Savić

Research of 113 cases processed in the District  
Court in Belgrade - analysis of court files,  
evidentiary proceedings and verdicts

- **Poor quality of medical documentation** - the examination was performed by untrained doctors
- A common mistake - **only a gynecological examination** was performed **without a general physical examination**

**failures in determining extragenital injuries**



the frequency of engagement of doctors by specialty  
forensic medicine specialists  
are extremely rarely involved

- **Impossibility of proving** the crime of rape

**PERPETRATORS ARE "PROTECTED"  
WITH BAD MEDICAL PROCEDURE  
IN PROVING SEXUAL VIOLENCE**



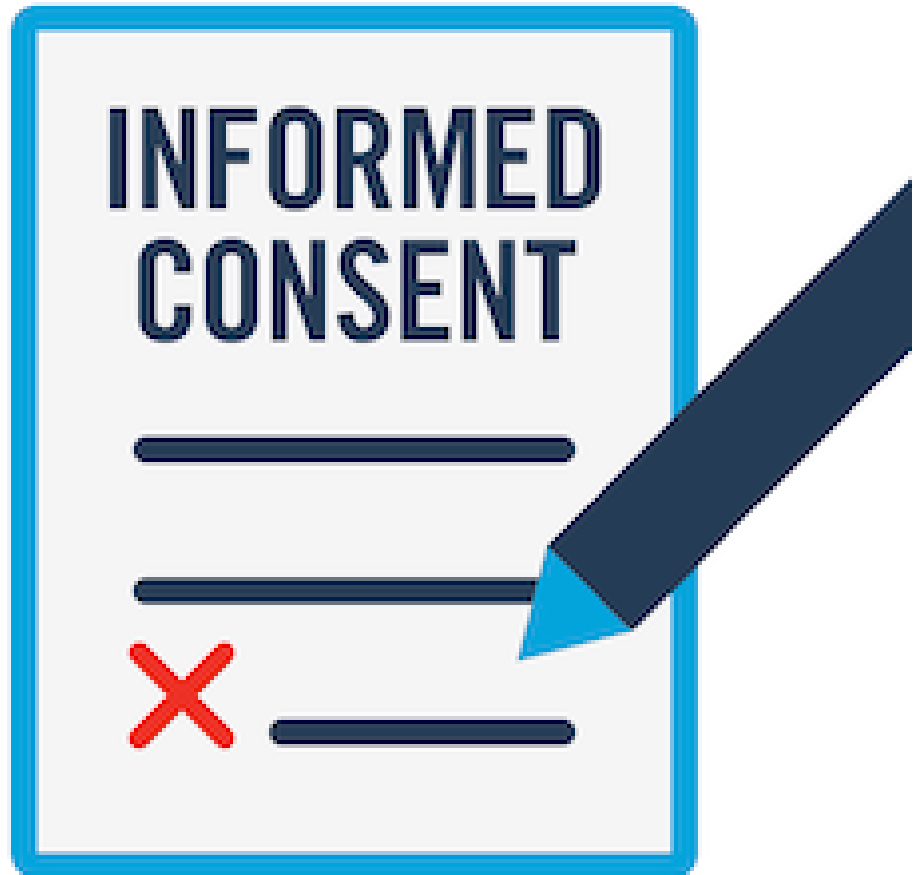
**RAPE IS DIFFICULT TO PROVE,  
AND IT'S EVEN HARDER TO DENY**

Manchester United  
star Cristiano  
Ronaldo **has been  
acquitted of raping  
two girls due to a  
lack of evidence,** the  
BBC reports.



**Consent to the examination** is firstly obtained from the woman or, in the case of a child, from parent or guardian

**INFORMED CONSENT**



# Who should do the examination?

educated team - the best combination:

**a specialist in forensic medicine** - or another doctor qualified to adequately perform an **external physical examination**

**gynecologist** - gynecological examination

**psychiatrist (psychologist)**

- proving psychological consequences (threat)
- psychological help and support for the victim

- Best **in one place** to reduce examination time and avoid additional harassment of the victim
- **Avoiding secondary victimization** – unnecessary repetition of statements

## Details of the allegation

- If the complainant has already provided the details of the allegation to another professional, e.g. a police officer, **it is not necessary to repeat** the details to the physician.
- The details of the allegation can be provided to the physician by the third party and then clarified, if necessary, with the complainant.
- It may be difficult for the complainant to describe **oral and anal penetrative sexual assaults**, and the doctor may need to ask direct questions regarding these acts sensitively.

# COMPLETE PHYSICAL EXAMINATION

of a completely undressed person

## Confirmation of applied force

- diagnosed, described and photographed **injuries**
- the **absence of injuries does not exclude rape by the use of force** - multiple attackers fix the victim and prevent her resistance, a large disparity in strength between the victim and the attacker, a sudden attack

# INJURIES

## Extragenital

- scalp
- face - around the nose and mouth due to gagging with a hand
- neck
- hands
- breasts
- belly
- inner thighs
- buttock

**Genital** – external and internal genital organs

# TYPE OF EXTRAGENITAL INJURIES

## classification

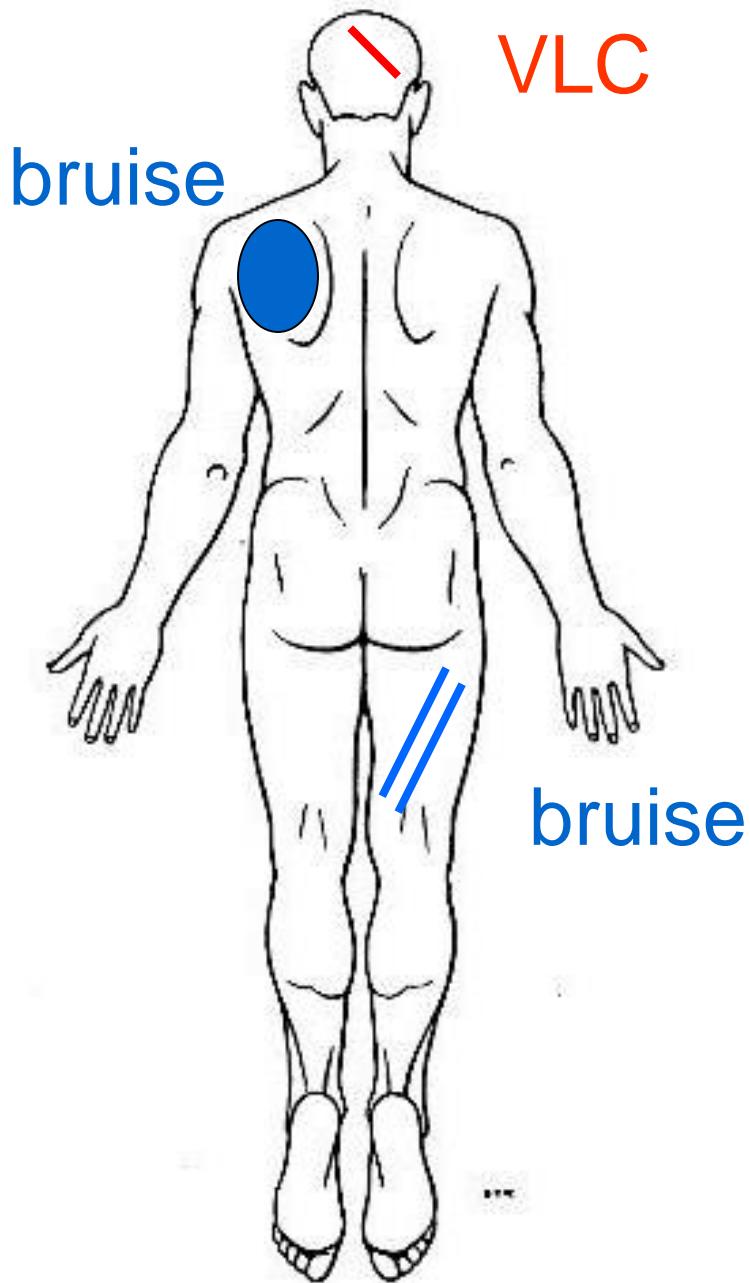
### Mechanical

- blunt trauma – abrasions, bruises, contusions, lacerations
- cuts - action of the blade
- stabs - action of the spike
  - the knife has both a blade and a point

### Asphyctic

- covering the nose and mouth with a hand (smothering)
- squeezing of the neck with a hand or hands (throttling)





## Diagrams

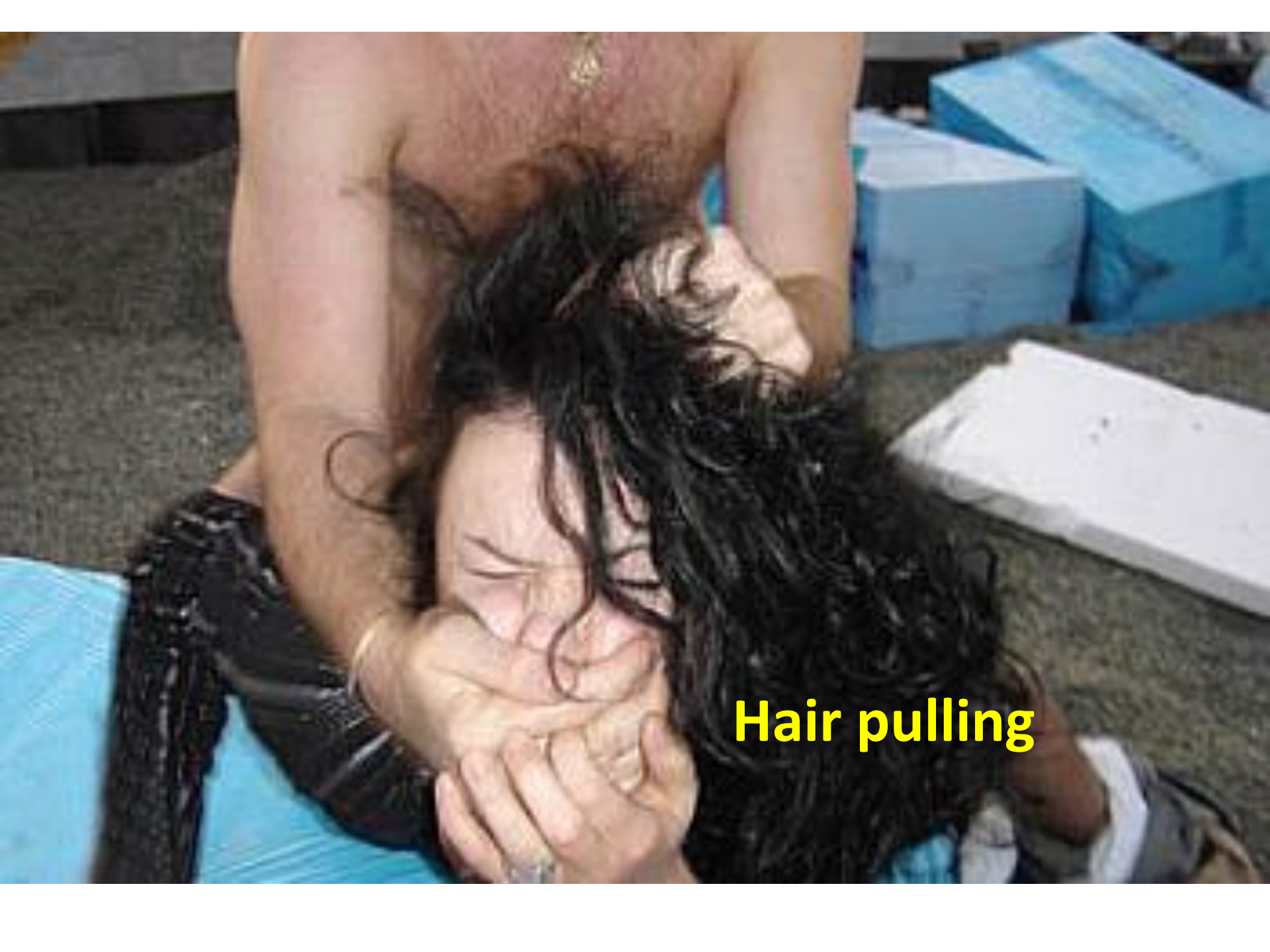
and photographs

should document

a physical examination

# Photographing the injury with a scale (ruler)





**Hair pulling**

- **Examination of the head (scalp)** is difficult when the victim has thick and long hair - minor bruises are difficult to determine
- Lack of hair strands - **traumatic alopecia** due to hair pulling
- When pulling out a large number of hairs at the same time, **avulsion of the scalp** with the formation of bruises and blood extravasation can occur



**pressure on the nose and  
mouth with a hand to prevent  
screaming and calling for help**

**External and  
internal injuries  
of the nose and  
mouth**



C- [redacted] /03



**bruises** (oval, circular from the finger pads), **abrasions** (arched, linear scratches from nails), **contusions**, **lacerations** of the mucous membrane of the lips and gums, **tooth injuries**

linear semilunar abrasion caused by nail pressure



injuries that are medically slight and quickly pass  
without a trace

can be a diagnostically significant indicator of violence



**strangling of the neck with a hand or hands**



# strangling the neck with hand or hands







**Petechial bruises** on the conjunctiva, facial skin and mucous membrane of the oral cavity -

**asphyxia**

Petechial bruises **on the palate** can indicate **oral penetration**

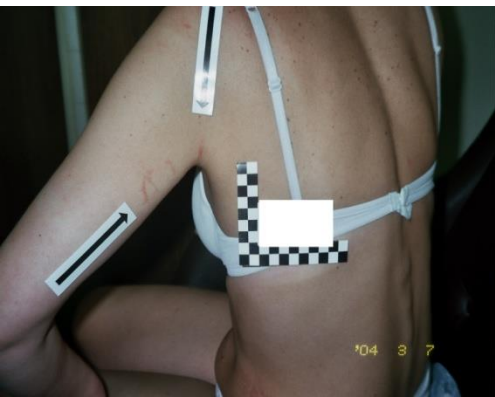




clenching the upper arms with hands  
**bruises in the form of the finger pads  
or entire fingers**

arrangement at capture





## LIMBS

arrangement of fingers when grasping

S-028109







skin abrasions due to the hand tying



## **Bite marks**

may be found on the neck, shoulders, breasts, and buttocks from **oral suction** or biting

### **IDENTIFICATION OF THE PERPETRATOR**

**tooth marks** - forensic odontology

**remains of saliva** - swab sample - DNA analysis



## **SERIOUSNESS OF INJURIES**

(qualification)

- slight - most often
- serious
- fatal

## **Extensive bruises**

all over the rape victim's body



S-0281/09

**Bruises on inner thighs**  
from the violent spreading of the thighs



S-0281 /09

# Defense against attacker



ward off the weapon

grasping the weapon

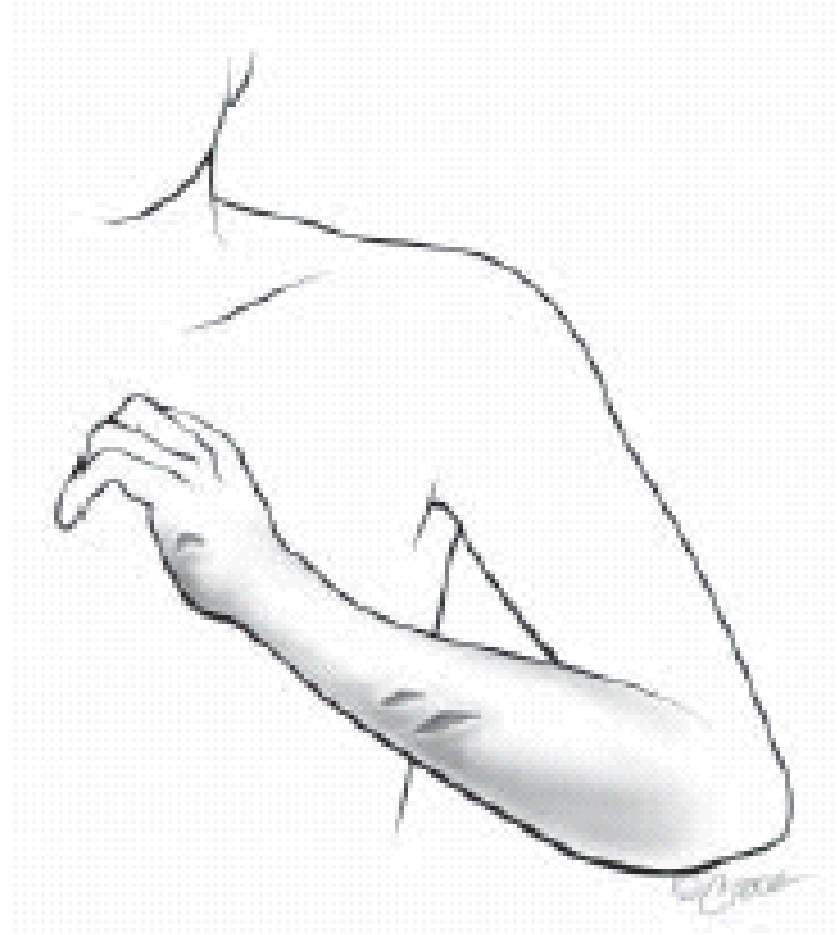
# Defense injuries (bruises)



# Defense injuries (incisions)



ward off the weapon





# Defense injuries (incisions)



grasping the weapon



# RAPE

victim



suspected attacker



the striped abrasions caused by fingernails of the victim  
**defense injury on the attacker**

a woman usually defends herself with her nails and teeth

# Proving sexual assault

- **Confirmation of recent sexual intercourse**
  - signs of intercourse or deflowering
  - the presence of seminal fluid on or in the body of the victim

# GENITAL INJURIES

## gynecological examination

- Genital injuries are the most important evidence of sexual offences, and an examination should be performed in the correct order not to lose valuable forensic evidence
- Genital injuries do not necessarily occur in all cases of rape, so the **absence of these injuries does not exclude rape**
- **Injuries of the external genitals** - bruises, abrasions, contusions, lacerations



S-0281 109

bruise on the labia majora

# GENITAL INJURIES

## gynecological examination

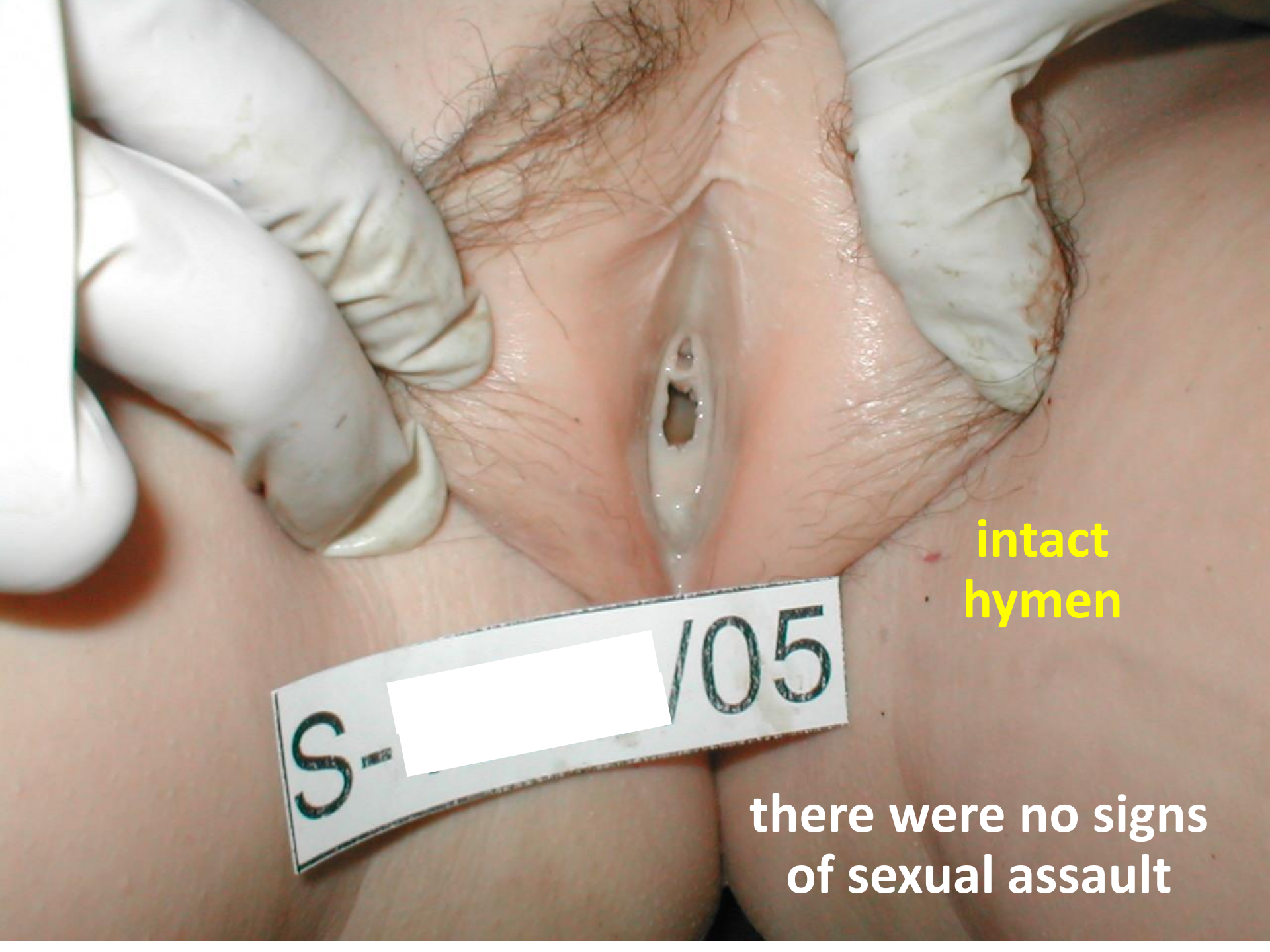
- **Hymen** - deflowering (defloration) due to the **first penetration** of the penis or an object of sufficient thickness to cause injury to the hymen



21.11.2005 **The murder of a 13-year-old girl**  
multiple stab wounds



The perpetrator, a 42-year-old man,  
previously convicted of raping a girl,  
**suspicion of rape**



intact  
hymen

S- [redacted] /05

there were no signs  
of sexual assault



# Slaughtered a girl who wanted to help him

SERIJAL

FOTOGRAFIE: MENAD KOJADINOVIC, VESNA LALIC, ANDREJ ISAKOVIC

Mesto kod  
zelezničke stanice  
u Batajnici, gde  
je pronađena  
ubijena Tamara

**DRAGAN NIKOLIĆ  
ČOMBE (50), SUROVI  
UBICA I SILOVATELJ**

# ZAKLAO DEVOJČICU koja je htela da mu pomogne!

**NAJVECI SRPSKI  
MONSTRUMI**

Na njihovim rukama je krv nevinih žrtava. Njihovi zločini šokirali su celu Srbiju. Najnoviji serijal "Alo!" predstavlja vam najveće srpske zlotvore u poslednjih nekoliko decenija.

Srbiju - nožem je izbio 19 puta u srce i leđa!  
Devojčica je umirala, a svirepi ubica ju je pljačkao! Uzeo joj

**Cerio se u sudnici**  
Tokom izricanja presude Nikolić je pokazivao strašnu ravnodušnost.

Tamarini roditelji zabrinuti što se nije vratila iz škole krenuli su da je traže. U šiblju pored pruge unakaženo telo našao je devojčin deda.  
Nekoliko dana je trajala policijska po-



5/17/2007 Dragan Nikolić Čombe (44) was sentenced in the District Court in Belgrade to **40 years in prison with a combined sentence**, because he **killed** T. I. **(13)** in Batajnica in a treacherous manner and for **rape and unnatural fornication** against N. S. **(12)** in Opovo.

It was undoubtedly established that Nikolić on **November 21, 2005**. on the road near the train station in Batajnica, killed T. in a treacherous way...when the girl came to help him, after he fell, he inflicted her 19 fatal stabs in the back and chest with a kitchen knife - the judge said in the explanation of the verdict.

**One of the cases, due to which in 2019, the sentence of life imprisonment was reinstated in the Criminal Code of RS**

**OBLJUBIO  
DEVOJČICU DOK  
JE BILA U NESVESTI**

Nikolić je u junu 2005. godine tada desetogodišnju S. N, koju je poznao, izveo iz škole, odveo u šumarak, gde ju je zverski pretukao, a zatim, silovao.

Devojčica je bila u nesvesnom stanju, a kada se probudila bila je naga i pokrivena grmljem. Lekari su konstatovali rascep himena, potres mozga i brojne modrice po telu.

je ruku pru-  
Draganu Nikoliću

The previous crime occurred in June 2005, five months before the murder

He took the **12-year-old girl** to the forest, beat and **raped her while she was unconscious**. The doctors found a **ruptured hymen**, a concussion and **numerous bruises on the body**.

Special care is required to distinguish between a ruptured hymen and certain forms of intact hymen



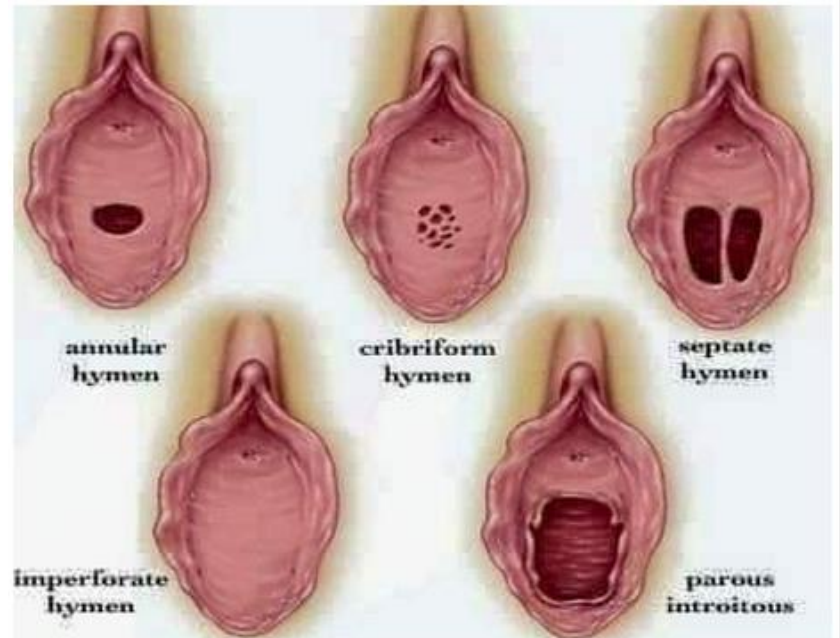
## Hymen

shape: annular

- opening, edge
- rim

other forms

(septus, fimbriatus, cribriformis)





## **Congenital incision**

it does not cover the entire width of the rim from the edge to the base

## **Acquired tear**

cover the entire width

**Recent** - 3 to 5 days

**Old (healed)**



**Highly elastic hymen** allows penetration into the vagina without creating a gap on the hymen rim  
anatomical finding of the entire hymen (if the hyper-elastic hymen is excluded) is a sure proof that deflowering has not been performed

# GENITAL INJURIES

## gynecological examination

- **Internal genitalia** - injuries often absent
- Injuries to the **walls of the vagina** (bruises, abrasions, lacerations) occur more often (especially **lacerations**) in older women and children and when penetration is performed with an object
- **Bleeding from the vagina** raises suspicion of the existence of an injury
- **Anus and its surroundings** - abrasions, bruises, fissures, splits

# MISINTERPRETATION

## OF FINDINGS AND INJURIES SHOULD BE AVOIDED

- Extragenital injuries from rough voluntary sexual intercourse - bruises on the neck, linear abrasions from fingernails
- Genital injuries can also occur during voluntary intercourse
- Reddening of the mucous membrane of the vagina – missinterpreted as an sure sign of injury
- Anal injuries can also occur with long-term constipation.



**Physiological pigmentation of the skin around the anus**  
misinterpreted as a sign of long-term violence and  
repeated anal penetrations

29.09 2003,



**SELF INJURING** - false accusation of rape after a voluntary sexual act - remorse, shame, fear of the family



# A 30-year-old woman invented rape and maniac

## IZMISLILA SILOVANJE I MANIJAKA

■ Tridesetogodišnja Beograđanka M. N. mislila da će se njen bivši mladić sažaliti i vratiti joj se kada u novinama pročita strašnu vest

**BEOGRAD - Tridesetogodišnja Beograđanka M. N. lažno je prijavila policiji da je u noći između nedelje i ponedeljka silovana na parking u Vračaru, misleći da će se tako pomiriti sa bivšim dečkom!**

Devojka je, kako saznajemo, psihički bolesnik i smeštena je u bolnici „Laza Lazarević“.

Kako nam je rečeno u policiji, izvršene su sve provere i lekarski pregled, nakon čega je utvrđeno da je devojka sa-



mu sebe povredila.

Kako nezvanično saznajemo, M. N. je u novinama čitala o slučajevima serijskih silovatelja, koji su poslednjih nedelja harali Beogradom. Želela je da i njen slučaj bude objavljen u medijima kako bi se bivši dečko sažalio na nju i vratio joj se.

M. N. je u ponedeljak oko 16 časova pozvala policiju i prijavila da ju je tokom noći manijak seksualno zlostavljao, nabijajući joj šaku u analni otvor na parking u Ulici cara Nikolaja Drugog. Ona je poli-

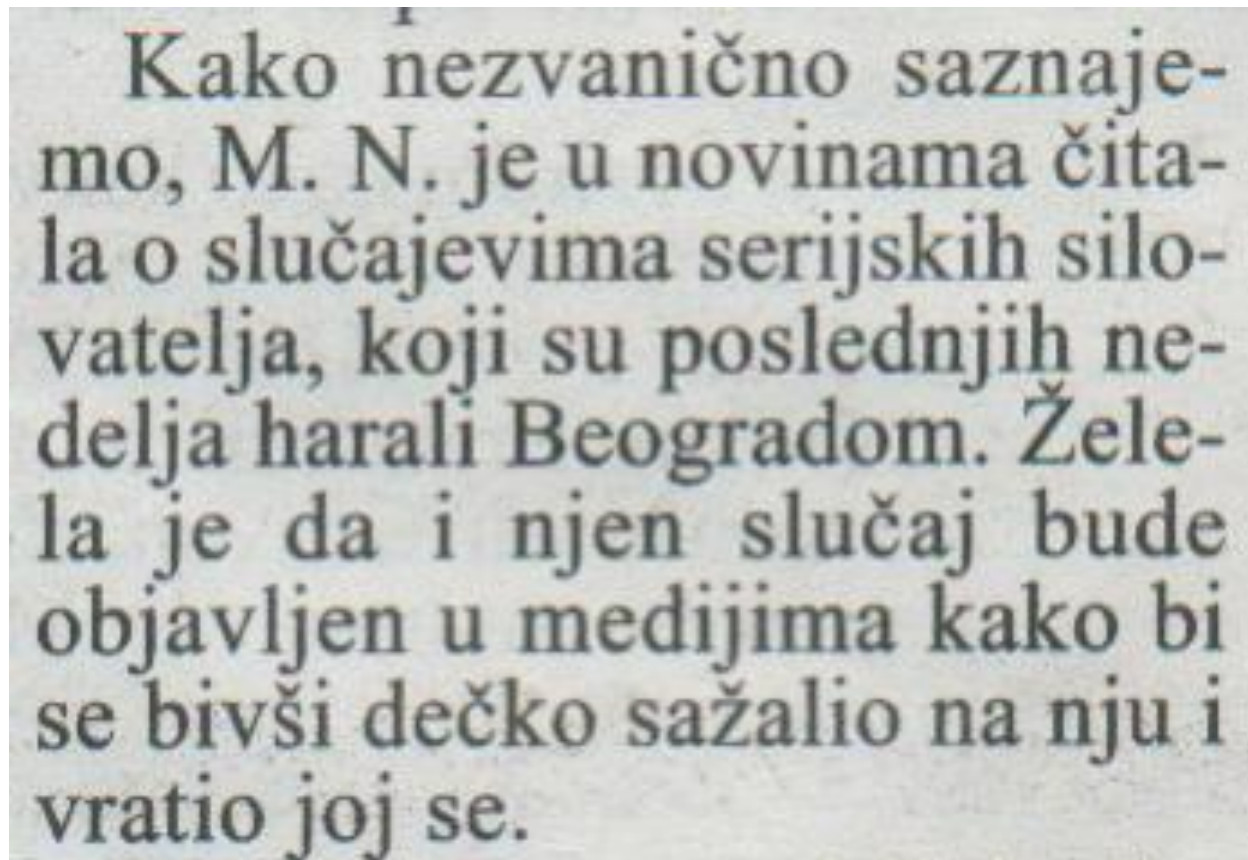
cajcima objasnila da ju je manijak najpre opljačkao, a potom se i seksualno izživljavao nad njom. Devojka je, čak, dala i opis napadača.

Pošto je obilno krvarila iz analnog otvora, pregledali su je lekari i utvrdili da je reč o samopovređivanju. Zasadu se ne zna na koji način je sebi nanela povrede. Policiji je na licu mesta bilo sumnjivo što je M. N. tek nakon više od 12 sati prijavila ceo slučaj. Nakon toga je odvedena u stanicu, gde je ustanovljeno da je reč o lažnom prijavljivanju. (Z. N.)

A 30-year-old woman falsely reported to the police that she was raped in the parking lot

**BEOGRAD - Tridesetogodišnja Beograđanka M. N. lažno je prijavila policiji da je u noći između nedelje i ponedeljka silovana na parkingu na Vračaru, misleći da će se tako pomiriti sa bivšim dečkom!**

She read news in the newspaper about serial rapists who have been rampaging through Belgrade for the past few weeks. She wanted her case to be published in the media so that her ex-boyfriend would feel sorry for her and return to her.



Kako nezvanično saznajemo, M. N. je u novinama čitala o slučajevima serijskih silovatelja, koji su poslednjih nedelja harali Beogradom. Želela je da i njen slučaj bude objavljen u medijima kako bi se bivši dečko sažalio na nju i vratio joj se.

Since she was bleeding profusely from her anus, the doctors examined her and determined that it was a case of self-injuring. So far, it has not been determined how she injured herself.

Pošto je obilno krvarila iz analnog otvora, pregledali su je lekari i utvrdili da je reč o samopovređivanju. Zasada se ne zna na koji način je sebi nanela povrede. Policiji je na licu mesta bilo sumnjivo što je M. N. tek nakon više od 12 sati prijavila ceo slučaj. Nakon toga je odvedena u stanicu, gde je ustanovljeno da je reč o lažnom prijavljivanju. (Z. N.)

The police on the spot were suspicious that she reported the alleged rape after more than 12 hours. She was taken to the police station and it was determined that it was a false report.

## Use of the threat

- **Assessment** of the existence and character of the danger is within the **jurisdiction of the court**
  - circumstances of the case (finding the knife)
  - psychiatric examination of the victim
- Discussion with the judge about the **reddening of the mucous membrane of the vagina** as a supposed sure proof of the application of a threat without the use of force in cases of rape

# PROVIDING MATERIAL FOR TRACEOLOGICAL ANALYSIS

## BIOLOGICAL TRACES

semen, saliva, blood, hair, epidermis

**traces of the perpetrator on the victim**

**traces of the victim on the perpetrator**

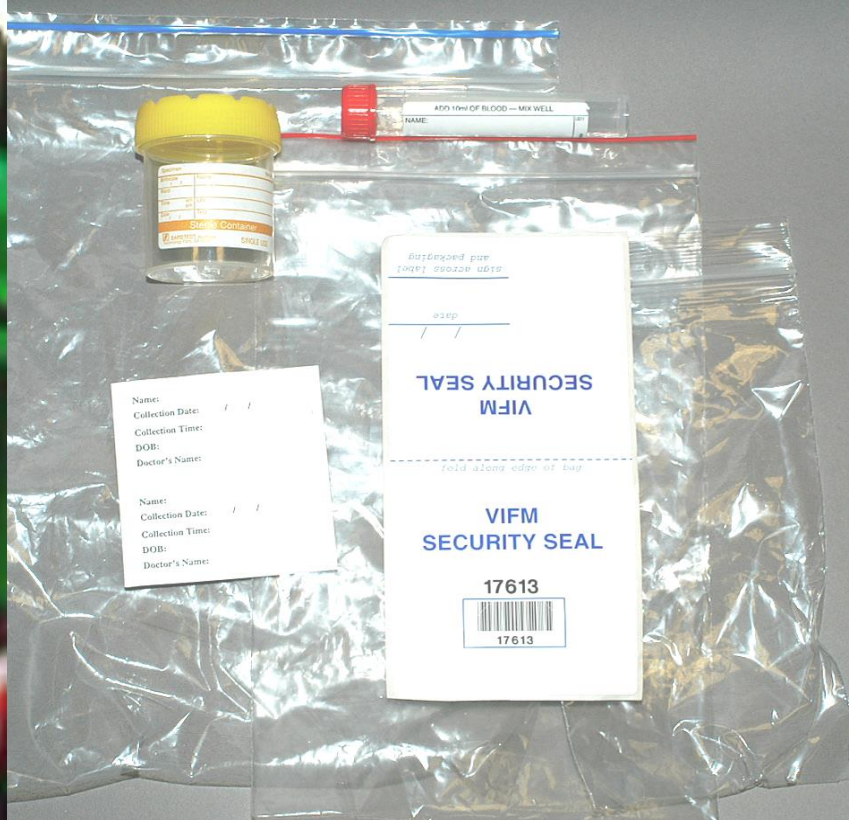
**DNA analysis**



- The **victim's reference sample** for DNA analysis - swab of the buccal mucosa
- **Swabs** – mandatory regardless of anamnestic data
  - external genitalia
  - internal genital organs
  - the posterior vault of the vagina and the external opening of the cervix
  - anus and perineum
  - oral cavity – arches of the lips and walls of the oral cavity
  - others - bites
- **Undernail content or nail clippings**
- **Hairs** - scalp hairs, pubic hairs

**Examination kits** contain the necessary means to systematically collect biological samples







Taking a swab  
from the surface  
of the skin



bite  
saliva

0mm 10 20 30  
V.I.F.M. 2/10

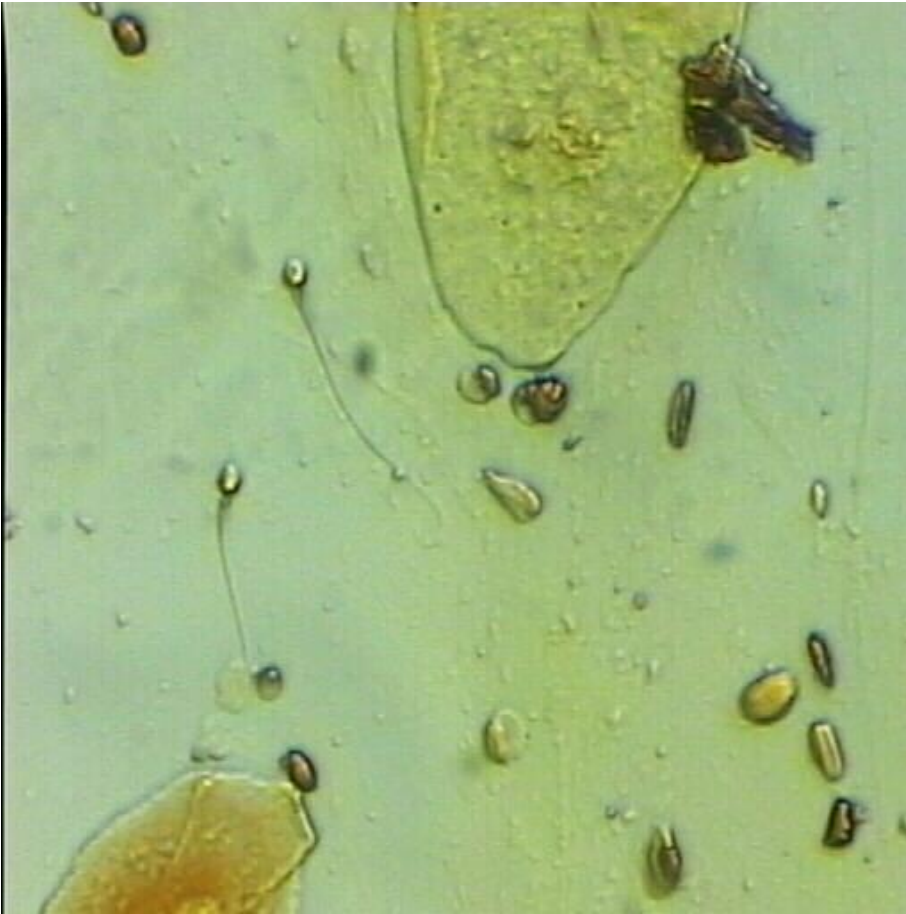
## SEMEN - location

- sexual organs of men and women, alive or dead (swabs - spermatozoa can remain alive for several days after death)
- around the anus or in the rectum
- in the genital area, on the thighs and on other parts of the body
- In the oral cavity
- on the clothes of the victim and the perpetrator
- on objects from the environment

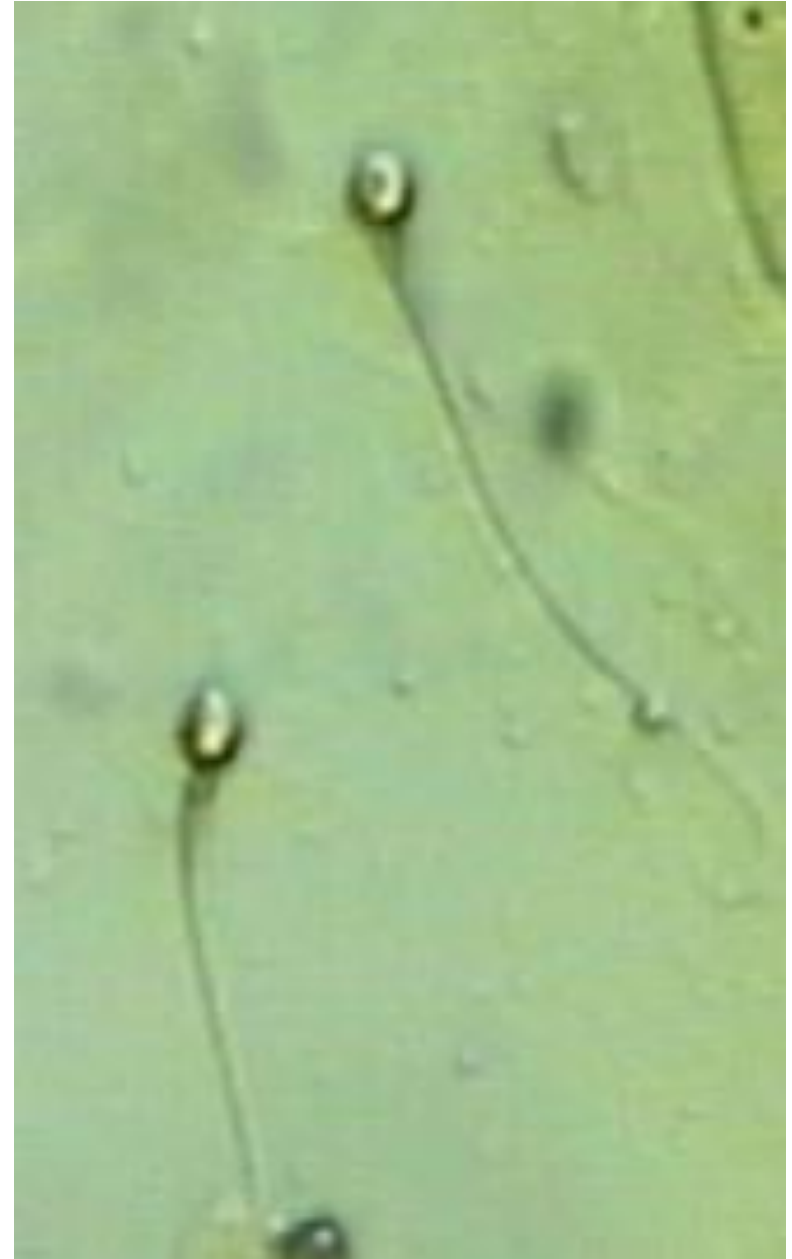
## Is it sperm?

- proving **acid phosphatase**
- microscopic -  
crystallographic **sperm  
crystals**
- **PSA** - prostate specific  
antigen
- microscopic - cytological -  
**presence of spermatozoa**





**one whole spermatozoon  
is sufficient and certain  
proof of the presence of  
sperm**



# A negative finding of spermatozoa and crystals does not rule out that it is sperm

- spermatozoa may be **missing** - in case of azoospermia, due to old age, early youth, serious diseases, sterility, diseases of the sexual organs, frequent ejaculations
- spermatozoa may **disappear** from sperm (disintegration)
- sperm crystal formation may be hindered



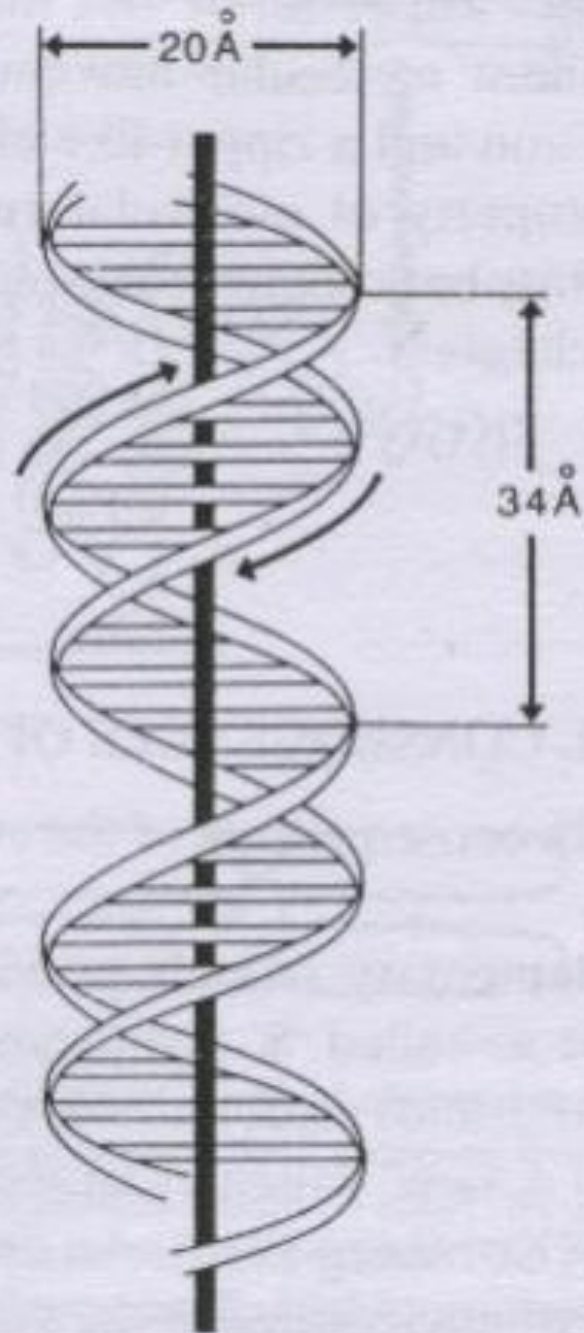
## Is it of human origin?

- **microscopically** - the shape and size of the spermatozoa
- **precipitation** - specific human proteins
- **From which person does it come?**
- **DNA analysis**

The DNA profile of the sperm found in the rape victim can be **compared** to the DNA profile of the suspected perpetrator

## **CERTAIN METHOD**

Previously, in so called sercrteros, **only exclusion** based on **blood groups** was possible



# The birth of forensic genetics

Nov. 22 1983 Lynda Mann found dead FSS: Attacker has A blood type (like 10% of the population)



July 31, 1986 Dawn Ashworth murdered  
The raider also has an A blood type

Richard Buckland arrested (and confessed)  
But he had blood type O!



Sir Alec Jeffreys conducts DNA analyses  
Buckland was INNOCENT

All Leicestershire men have been typed, none of  
the profiles match the leads



Pub stories can be dangerous: Ian Kelly  
admits he gave blood instead of Colin  
Pitchfork

**Undernail content or  
nail clippings**



# RAPE

victim



suspected attacker



under the victim's fingernails **remains of the attacker's epidermis** - DNA profile can be compared with the suspect's DNA profile

# HAIRS

- the victim's hair on the attacker
- the attacker's hair on the victim
- hairs of the victim and the attacker on tools, clothes and objects from the environment

**hair arrangement**  
**way of playing the event**

## IDENTIFICATION OF THE ATTACKER

- appearance of hair
- DNA analysis

**EXAMPLE** - a woman **raped and beaten to death**

During the autopsy, numerous strands of her long brown hair were found on the victim, but short **gray hairs, identical to the perpetrator's hair, were found on the palm of her right hand.** He stated that he held her by the hair and slammed her head on the floor, during which **she defended herself and pulled his hair.**

# PROVIDING MATERIALS FOR TOXICOLOGICAL ANALYSIS

- influence of alcohol, drugs and medicines





# PROVIDING MATERIALS FOR TOXICOLOGICAL ANALYSIS

- Blood and nasal swabs - acute intake
- Urine - acute and early intake
- Hair - earlier intake (deposition of poisons)
  
- Retention of poisons in the body - up to about 3 days (alcohol up to 24 hours)
- Only cannabis metabolites (tetrahydrocannabinol) – up to 7 days
- Deposition in the hair

# EXAMINATION OF THE VICTIM'S AND ATTACKER'S CLOTHES

Clothing must be properly identified, photographed and preserved after inspection.

- **damages** - splits and defects
- **biological traces** - blood, hair, saliva, semen
- **traces of non-biological origin** - grass, earth, sand, etc. can be found on the body and clothes of the victim and the suspect, on the basis of which these **persons can be connected with the place**

# **PROVIDING MATERIALS FOR SCREENING BLOOD AND SEXUALLY TRANSMITTED INFECTIONS**

## **Taking screening material**

### **blood borne infections**

HIV, HBV, HCV

### **sexually transmitted infections (STDs)**

syphilis, gonorrhea, chlamydia, mycoplasma,  
ureaplasma

# RAPE

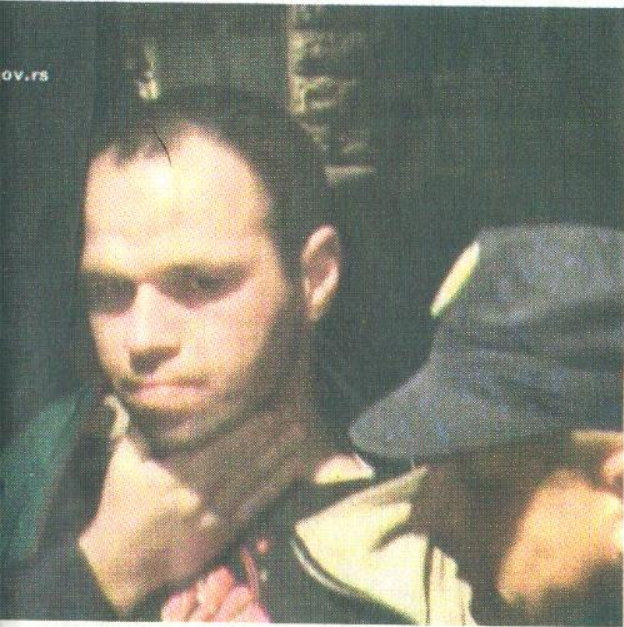
**victim**



**suspected attacker**



**IF POSSIBLE, AN EXAMINATION OF THE  
SUSPECTED PERPETRATOR SHOULD BE CARRIED  
OUT AS SOON AS POSSIBLE**



Како прво силовање извршио је са 17 година

## На корак до другог силоватеља

Београдска полиција интензивно трага за другом особом осумњиченом за силовање жене у лифту на Коњарнику, изјавио је јуче министар унутрашњих послова Ивица Дачић. „Ми трагамо и већ је идентификован човек који је починио силовање у лифту”, рекао је Дачић новинарима у „Сава центру”, а пренела Бета. „Када је реч о силовању, наша полиција максимално ради на проналажењу свих починилаца тих кривичних дела”, рекао је Дачић, апелујући на припаднице нежнијег пола да пријављују све видове насиља над њима.

Према званичним подацима, у последњих неколико дана у Београду су силоване две девојке – једна у Делиградској улици, а друга у солитеру на Коњарнику. Због сумње да је пресретао девојке у слабо прометним и осветљеним деловима града и уз претњу ножем их присиљавао на полни однос, у петак по подне је у возу на релацији Београд–Панчево ухапшен Саша Мега (30), код кога је пронађен нож којим је претио девојкама. Како је јуче



За њим се још трага

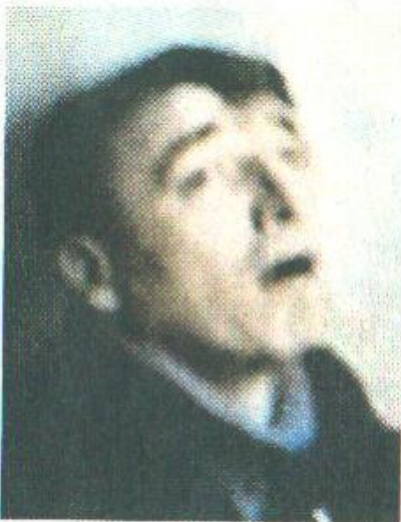
саопштио МУП Србије, Саша Мега је „вишеструки повратник у извршењу кривичног дела силовања”.

„Прво силовање је извршио 1996. године, као малолетник од 17 година, да би 1999. године поновио извршење истог кривичног дела”, навела је полиција и додала да је и 2004. године починио силовање „на изузетно груб и понижавајући начин”, због чега је осуђен на четири године затвора. Почетком септембра, по одслужењу казне у Казнено-поправном domu Забела код Пожаревца, Мега је пуштен на

слободу и убрзо потом наставио да врши нова силовања, наводи се у полицијском саопштењу. Међутим, како је јуче објаснио министар Дачић, Мега није повезан са силовањем у лифту у згради на Коњарнику.

Према незваничним информацијама, Саша Мега је јуче на саслушању у полицији признао неколико силовања извршених у Београду. Он ће данас бити приведен истражном судији Окружног суда.

М. Албуновић



За њим се још трага

**They are still looking for him.**

The Belgrade police are intensively searching for another person suspected of raping a woman in an elevator in Konjarnik.

# Tasks of clinical forensic examination of perpetrators

1. Determining and documenting **physical injuries**
2. The anatomical details of his **genitalia** and the determination whether the man is **potent or impotent** (in cases of alleged copulation)
3. Provision of material for traceological analysis - **biological traces**
4. Provision of material for **toxicological analysis** - influence of alcohol and drugs
5. Provision of materials for diagnosis of blood and sexually transmitted **infections**

# DETERMINATION AND DOCUMENTATION

## BODILY INJURIES

- a detailed **description of the injuries**, on the basis of which it is possible to draw a conclusion about the **mechanism of the injury**

an attempt to defend herself -  
a woman usually defends herself with her nails and teeth - scratches, bites, on the attacker's hands, face and neck



- **photo documentation** of injuries

# PROVIDING MATERIAL FOR TRACEOLOGICAL ANALYSIS

- The **reference sample** for DNA analysis - swab of the buccal mucosa
- **Swabs from the penis** - vaginal epithelial cells desquamated during intercourse can be identified on the penis up to 48 hours after intercourse
- **Undernail content or nail clippings**
- **Hairs**
- **Biological traces originating from the victim**  
hairs, blood, saliva, epidermis



# Abrasion – covering the nose and mouth with a hand



Remains of the victim's epidermis under the fingernails of the attacker - DNA profile can be compared with the victim's DNA profile

Mika Aleksić sutra ponovo na sud:  
Učitelj glume optužen za seksualno  
zlostavljanje sedam učenica već treći  
put iznosi svoju odbranu

**BRUKA! "MILENA RADULOVIĆ JE SVE  
INSCENIRALA KAKO BI BILA POZNATA":  
Mika Aleksić optužio glumicu da je sve  
izmislila iz osvete**

Nekoliko devojaka, od kojih su neke maloletne, prijavilo je policiji da ih je silovao ili seksualno uznemiravao Miroslav Mika Aleksić, čuveni vlasnik škole glume. Jedna od njih je renomirana mlada glumica Milena Radulović (26), koja gradi karijeru i u Rusiji, gde je za godinu dana snimila film i dve serije.

Teacher of acting accused of sexually abusing seven  
female students

Seven girls, some of whom are minors, reported to  
the police that they were raped or sexually abused  
by the famous owner of the acting school

**Reporting 9 years after the event**

The suspect denies having committed these crimes

How to pass judgment if there is no medical or other material evidence, but there are only contradictory statements of the defendant and the injured parties?

**RAPE IS DIFFICULT  
TO PROVE,  
AND IT'S EVEN  
HARDER TO DENY**



# **THE INTERPRETATION OF FINDINGS IN FORENSIC EXPERTISE**

There is often difficulty in interpretation of findings in both clinical and forensic pathology practice. When only minimal evidence is present on the victim of sexual offence, the following questions need to be answered:

1. Is there any evidence of previous sexual intercourse at any time?
2. Is there evidence of recent sexual intercourse?
3. If recent intercourse has taken place, was it by force?

## **(1) Is there any evidence of previous sexual intercourse at any time?**

Many varieties of hymen structures may be found in the adolescent female, ranging from non-perforated hymen to that with a large central opening.

**An intact hymen determines the evidence of virginity**, i.e. that defloration did not occur (with exclusions of hyper-elastic hymen). But, this does not exclude sexual activity, which does not affect the hymen. Short penetration and, technically, rape can occur from even the minimal passage of penis between the labia.

**Evidence of old intercourse** may be assumed from **healed tears of hymen** with "*carunculae multiformes*" at the margins of the vaginal entrance.

**Evidence of previous pregnancy**, such as old damage to the cervix and breast changes is almost positive evidence of previous sexual intercourse.

## **(2) Is there evidence of recent sexual intercourse?**

The **labia may be red and inflamed** with slight oedema of the vaginal entrance.

A **recently ruptured hymen**, with swelling, a raw unepithelialised edge, and bleeding may be found. Today, this is a relatively uncommon finding, except in children and previously virginal young persons.

The **presence of semen on swabs** is the best evidence, though with the use of condoms it may be absent.

### **(3) If recent intercourse has taken place, was it by force?**

This may be all too obvious in the **presence of gross injury**, *especially in children*. Where vaginal or rectal tearing has occurred or where there is obvious abrasion, bruising, or laceration of the vulva, anal margins or perineum, then this can hardly be compatible with voluntary intercourse.

**Where injury is relatively slight** and confined to hyperaemia and oedema of the vaginal entrance and where abrasion and bruising of the vulva is slight, the possibility that intercourse was by force still exists.



The possibility of sexually motivated assault without actual penile penetration must be considered when no semen can be recovered.

A severe damage can be caused by digital or instrumental trauma.

- **Interpretation of physical findings** in persons who report that they have experienced sexual violence is one of the most difficult aspects of forensic practice
- Despite the fact that the medical examination of the victim is only one part of the investigation, the public and many professionals, including many doctors, have **unrealistic ideas about what conclusions can be reached after a medical examination**

- **Prejudice** - especially among professionals in the police and judiciary, that the **absence of physical injuries**, and especially genital injuries, in cases of suspected sexual violence **indicates the victim's consent** to sexual intercourse
- Based only on the presence or absence of genital and extragenital injuries, it is difficult to determine whether it was actually sexual intercourse with consent or without consent - **a complete assessment of the case and all collected medical and non-medical facts is important.**

**THE ABSENCE OF EXTRAGENITAL AND GENITAL  
INJURIES MUST NOT BE INTERPRETED AS THE  
VICTIM'S CONSENT, THAT IS AS A FINDING  
THAT EXCLUDES THE CRIMINAL OFFENSE OF  
RAPE**

**THE PRESENCE OF EXTRAGENITAL AND  
GENITAL INJURIES IS NOT A SURE SIGN OF RAPE**

# SPECIFICITIES IN THE CASES OF SEXUAL VIOLENCE AGAINST CHILDREN

- The physical findings of the medical examination constitute a small part of the diagnosis, since **positive findings are usually minimal or absent.**
- The examination technique is not significantly different from the examination technique of adult victims, with the note that it is preferable that **these examinations are performed by specially trained doctors.**

- The examiners must be both familiar and comfortable with normal childhood behaviour and development, genital and anal anatomy, as well as physical findings of abuse.
- If several medical specialists are to be involved it is desirable that they **should examine the child together**. Joint examinations can be performed by a pediatrician, a gynecologist, and a forensic medical examiner.
- The examination should be carried out **in the presence of a trusted adult**, usually the child's mother.

- The **whole child should be examined**, and this includes measurement of height and weight, assessment of the general appearance, developmental milestones, demeanour and behaviour.
- As part of the physical examination, general **signs associated with trauma** should be sought, such as distribution and pattern of bruises, grip marks, 'love bites', teeth marks and scratches, as well as injuries within the mouth.

- In most situations, the disclosure involves past abuse and the **examination can be planned** to suit the child and family.
- **Delay should be minimized in the following circumstances, when:**
  - the abuse has occurred within the previous 72 hours;
  - there is a history of acute trauma;
  - there is a possibility of pregnancy resulting from the abuse, so that post-coital contraception can be prescribed.



## TABLE 2.4 **VULVOVAGINAL SIGNS OF ABUSE**

### **Non-specific signs when seen within 72 hours of abuse**

- erythema
- bruising
- superficial laceration/abrasion
- edema

### **Signs supportive of abuse**

- notch/cleft in posterior hymenal rim, which may be associated with scarring
- scar in posterior fourchette
- hymenal opening > 15 mm due to attenuation of hymen

### **Signs diagnostic of penetrating injury**

- fresh laceration of hymen
- old tear in hymen that may have healed with scarring and interruption of hymenal rim
- attenuation of hymen/disappearance of hymenal rim, usually posteriorly

## **TABLE 2.5 PERIANAL SIGNS AF ABUSE**

### **Non-specific acute changes**

- erythema
- edema
- fissures
- venous congestion
- bruising

### **Signs supportive of abuse**

- anal laxity without other explanation
- reproducible reflex anal dilatation 15 mm
- chronic changes, i.e., thickening of anal skin verge, increased elasticity and reduced anal sphincter tone
- bite marks

### **Signs diagnostic of blunt force penetrating trauma**

- fresh laceration
- healed scar extending beyond anal margin on to perianal skin in the absence of a reasonable alternative explanation

**There may be no physical findings in more than one-half of the children examined for suspected sexual abuse. The absence of physical signs neither confirms nor negates a diagnosis of sexual abuse.**

The court must not require the expert to testify on legal issues, nor may the expert engage in this (on guilt, premeditation, etc.)

The gynecologist was an expert in the case of alleged rape. He persistently claimed that the bruises on the girl's thighs were caused by rape. When asked how he explains his categorical stance, he stated: "I think the girl is telling the truth and if she is my daughter, I would kill the villain".

The girl soon admitted that there was no rape and that she had injured herself by pinching, in order to accuse the young man of rape.

# CASE REPORT FROM FORENSIC EXPERTISE PRACTICE

The order on conducting the investigation of the Higher Public Prosecutor's Office states that there is a suspicion that D.D. born on September 14, 1961, in the period from February 2021 to February 2022, in an apartment within the family house in Belgrade...using force and threats, forced the child, his granddaughter D.T. born on October 9, 2009. to have sex with him. In **February 2021**, in his apartment, he began to touch her on the body and began to remove her clothes and underwear, during which she resisted with her hands, but he overcame her resistance, then took out his penis and used it to penetrate the mouth of the injured child, so that after five minutes he ordered her to lie down on her stomach, then lay down on top of her and performed vaginal penetration with his penis, during which he ejaculated on the T-shirt that was next to the bed. At the beginning of **February 2022**, he again invited the victim to the apartment, ordered her to undress, to lie on her stomach, after which he performed vaginal penetration with his penis, during which he ejaculated into the cloth on the bed.

On March 9, 2022. when she was **12 years and 5 months** old, D.T. was examined at the **Department of Child and Adolescent Gynecology of the Institute for Maternal and Child Health Care "Dr. Vukan Čupić" in New Belgrade**, by **specialist in gynecology and obstetrics**...In the anamnestic data, she stated that by her grandfather D.D. suffers sexual abuse. About a year ago, she came to his room at his invitation, he started touching her body, then he undressed her and himself and asked her to "do something with her mouth with his penis." He then told her to lie on her stomach, put his penis in her vagina and after about 3 minutes he "finished in the cloth". A month ago, the grandfather called her into the room again, touched her on the body, asked her to lie on his stomach, then they had a little longer contact, after which he "ended up in a rag" again.

Clinical examination of the body revealed **no signs of fresh injuries**. A **good development of secondary sexual characteristics** was established. External genitalia of normal appearance, well estrogenized. **On the hymenal membrane, splits were found to the base at 2, 5 and 9 o'clock, as well as a split at 11 o'clock that covers more than 2/3 of the height of the hymen**. Vagina with slightly more voluminous yellowish secretion. Palpation findings on the uterus and adnexa are normal on both sides. On inspection, the external **anal sphincter is normal**. **A swab of the vagina and cervix, vaginal secretion and samples for microbiological examination** (bacterial vaginosis, chlamydia, mycoplasma and ureaplasma) were taken. On the basis of information that the last physical contact occurred about a month before the examination, **there were no indications for the taking of biological traces**.

In the conclusion, the gynecologist wrote down that the **gynecological findings clearly indicate that the girl had penetrative vaginal intercourse** and that the examination established **complete epithelialization of the hymenal membrane.**

In the submitted case files, there is no information about the performed control gynecological examination and the results of the microbiological examination of the samples taken.



**Questions from the expert opinion order:** It is necessary for medical experts to make a report in which they will determine:

- Did medical examination D.T. on March 9, 2022 show **signs which indicate that copulation or some other sexual act, i.e. an act equated with copulation**, was previously performed on her?

- If such signs were found, is it possible to determine the **time when the sexual act first occurred**, and whether it is possible to determine how long before the medical examination on March 9, 2022 the last copulation occurred.

# EXPERT OPINION

## gynecologist and forensic pathologist

I Gynecological examination D.T. on March 9, 2022, when she was **12 years and 5 months** old, the presence of **three tears was found on the hymen extending the entire width** of the rim to the base, in the places that correspond to the numbers 2, 5 and 9 of the dial on the clock, without the existence of blood vessels and signs reactive inflammation, i.e. **with signs of epithelization**.



The appearance of the identified tears indicates that they were so-called **old (healed) tears of the hymen**, which **occurred at least 3 to 5 days before the gynecological examination**, which is a period of time sufficient for complete healing.

Therefore, the mentioned gynecological findings point **with certainty to the conclusion that deflowering (defloration) occurred in her, possibly as a result of sexual intercourse, i.e. the penetration of a male penis into the vagina**, but it could also have happened due to the penetration of another oblong, shaped object.

II On the basis of objectively established medical facts, it can only be asserted with certainty that the defloration took place at least 3 to 5 days before the gynecological examination on 3/9/2022, but it is not possible to determine more precisely the time (day and year) of deflowering. In this particular case, it cannot be ruled out that the defloration took place in February 2021.

It is not possible to determine how long before the medical examination the last copulation eventually occurred, but it cannot be ruled out that it happened at the beginning of February 2022, as stated in the order on conducting the investigation.

It is also not possible to rule out that in February 2021 there was penetration of the penis into the oral cavity of D.T. but it cannot be claimed that it actually happened.

May 17, 2022

## REMINDER

- The time interval elapsed from the committed sexual violence to the examination of the victim is critical for the findings, especially in relation to injuries of the genital organs
- If the examination is not performed within the **first 72 hours**, the probability that genital injuries will be documented is significantly reduced - injuries on the mucous membranes of the genital organs heal very quickly

- In the presented case, and in many other cases in medico-legal practice, the delayed physical examination of the rape victim and the assailant makes it very difficult, and often impossible, to collect objective medical evidence of the rape, related to genital and extragenital bodily injuries and biological traces.
- In such cases, the expert's answers to the questions of the procedural authorities are often in the form: "based on the available and objectively determined medical facts, it cannot be ruled out, but it cannot be claimed either...".
- Passing a guilty verdict is then very difficult, even when all the circumstances indicate that rape took place

## **97% OF RAPISTS WALK FREE**

- In order to reduce this devastating number, it is extremely important that the media talk about rape and other crimes against sexual freedom much more than before, primarily with the aim of warning potential victims of the importance of timely reporting the case and an urgent physical examination.
- This is extremely important, not only in order to objectively prove the rape committed and to adequately punish the perpetrator, but also to provide the victim with appropriate medical assistance as soon as possible so that the physical and psychological consequences of the rape on her health are as minimal as possible.



*Thanks a lot  
for your attention*

