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Forcible Rape

Medical and Legal Information

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National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
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**NATIONAL INSTITUTE OF LAW ENFORCEMENT AND
CRIMINAL JUSTICE**

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FORCIBLE RAPE

MEDICAL AND LEGAL INFORMATION

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**National Institute of Law Enforcement and Criminal
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INTRODUCTION

Rape is one of the most painful and upsetting things that can happen to a woman. After the rape you may be frightened, angry or be unable to believe that it has happened to you. You may experience some depression, lack of confidence and find it difficult to relate to certain people. You may have nightmares or be unable to sleep. Your feelings are common reactions that many women experience and talking to others (friends and family) about your feelings might help you.

This booklet has been written to help you better understand the legal and medical procedures which you might experience as a rape victim. Although some of the events described in this booklet could have taken place already, you may still have questions and wish to refer to a specific section for review. Because each rape case is unique, the manner in which your case is handled may vary from this outline. This booklet describes the *ideal* way your case might be handled and tells you what you have a *right* to expect.

THE INITIAL POLICE REPORT

The police officer who takes your first report will ask questions about what has happened to you. Some of the questions might seem embarrassing. If you don't understand why a question is asked, have the officer explain why your answer is important.

In addition to your statement, the police will also want to examine the place where the crime took place for any evidence such as fingerprints, stains, weapons, etc. Therefore, be careful not to touch or remove any items that might assist the police in the investigation. Even the clothing you had on at the time of the rape may be important evidence, and the police officer may ask to take them. The clothing may not be returned to you for a long time if it is needed as evidence at trial.

In some cities, special counselors are available to help rape victims. Ask the police officer if there are any people like this in your city. Often, the rape counselor can be present to help you during your report to the police and throughout the entire police and legal process.

MEDICAL PROCEDURES

You should see a doctor immediately. Although you may wish to visit your regular doctor, it is recommended that you receive treatment at a special hospital emergency room where victims can go for medical care. Because many emergency room doctors and nurses receive special training to treat rape victims, they are sensitive to their needs and know the correct way to find and save the evidence which will build a strong case.

The doctor will examine you for injuries and determine if treatment is necessary. The doctor can tell you about tests for venereal diseases and/or pregnancy. Because you reported to the police, the doctor needs to examine you to find evidence for the police records. Evidence like this is quickly lost, so it is necessary for you to be examined as soon as possible after the rape.

The Pelvic Examination

You should *not* take a bath, shower before the doctor sees you, even though this may be the first thing you want to do. By not taking a shower or bath, you can save important evidence of recent sexual intercourse. If you have already bathed, you should still see a doctor immediately.

During the pelvic exam, the doctor will check your genital area for tears, cuts, bruises or other signs that force was used. The doctor will note any injuries in the medical report. The doctor will then take samples from your vagina to test for sperm cells. If sperm cells are present, the doctor records whether the cells are alive and moving. The movement of the sperm cells helps the doctor confirm how long ago the sexual acts took place. The doctor will need to know if and when you last had consensual sexual intercourse in order to determine if the sperm cells were from the rape. During the pelvic exam, the doctor will take a second sample of vaginal fluid to test for the presence of semen (the fluid around the sperm).

Other tests that might be performed include:

1. *Fingernail scrapings.* If you scratched or touched the rapist, any material found underneath your fingernails can be matched to the rapist, his clothing or things found at the scene of the crime. This might help to identify the rapist or to locate the exact place of the crime.

2. *Wood's lamp exam.* In a dark room this lamp causes semen left on your body or clothing to glow in the dark (fluoresce). The fluorescence is not evidence, but it suggests areas of your body or clothing that should be examined with more care.

3. *Pubic hair exam.* This test includes combing your pubic area for hairs which may have come from the rapist. These hairs, if found, can be matched with hairs later clipped from the rapist and can help prove his identity.

While you are at the hospital, you will be asked to sign a form which states that you agree to release the records of the medical exam to the appropriate police department and attorney's office. These records will become part of your case file and will be used during prosecution.

Test for Venereal Disease

You should make sure that you are tested for venereal diseases. During the pelvic exam, the doctor can give you a test for gonorrhea, the most common form of venereal disease. This test will tell if you had gonorrhea before the rape. It takes five or six days for the gonorrhea to be detected from the test. For this reason, you should be tested again five or six days after the rape to see if you contracted gonorrhea from the rapist.

Syphilis (a second type of venereal disease) is detected by examining a blood sample. It takes syphilis about six weeks to develop, so to protect yourself from syphilis you should have a blood test six weeks after the rape. These tests are needed because often a woman does not have any outward signs that she has a venereal disease. Because gonorrhea and syphilis can cause great harm to your body and to your reproductive system, you should be *very* careful that you are retested at the right times. You can arrange for the tests through your own doctor or at public health clinics.

Pregnancy Test

If you were not protected by the pill or some other method of birth control and you are worried about becoming pregnant, you have several choices which you can consider. One choice is called the morning-after pill which you take for five days starting as soon as possible after the rape. If you begin to take the morning-after pill within three days (72 hours) the pills will most likely stop the pregnancy. However, if you do become pregnant after taking these pills, you must agree to have an abortion, because the pills are harmful to the developing fetus.

The morning-after pill can cause you to feel sick to your stomach, sometimes to the point of vomiting. You can ask the doctor for a medication that will help reduce this nausea. The morning-after pill is a new, experimental drug and it might have dangerous side effects. For this

reason, you should discuss this treatment with the doctor before you decide to take it.

Another choice you have to prevent pregnancy is a menstrual extraction. The doctor uses a suction device to remove the menstrual buildup from the uterus. The menstrual extraction should be completed as soon as possible after the rape.

If you decide to wait to see if you miss a period, you can have your own doctor give you a pregnancy test or you can go to a clinic which gives the test for a small fee. If you are pregnant, you can decide to have an abortion or carry the pregnancy to term. In all instances, it is important that you discuss your choices with the doctor. You may also wish to talk with your family and friends.

Payment for Medical Care

The cost of medical exams is often covered by your personal accident or medical insurance. If you do not have personal insurance to cover the costs of the hospital or doctor bills, there are other possible sources for payment: (1) some states have a crime victim's compensation agency which pays for your medical costs; (2) sometimes the police or prosecuting attorney will pay for the medical tests they need for evidence; and (3) private groups and organizations sometimes have funds to assist victims of rape. Ask the doctor or the detective if your state or city has any of these methods available to help you. If such help exists, you should find out what procedure you must follow to receive the financial help.

THE FOLLOW-UP POLICE INVESTIGATION

The Interview with the Detective

After your initial report to the police, you will probably have an interview with a detective trained in rape investigations. The time and place of the interview will depend upon your physical and emotional condition as well as the department's policy about follow-up interviews. The interview is one of the most important phases of the investigation. Your ability to recall the details of the rape are essential.

The detective will ask about the force and threats the rapist used against you, including anything the rapist said to frighten you as well as any weapon the rapist used or said he would use. The detective will also ask you to recall anything you said or did to resist the rapist. These details are important because they support the fact that you did not agree to the sexual act and they are necessary for presentation in court to prove the legal elements of the crime.

The detective will also ask questions about what happened before and after the rape. Be as candid and precise as possible. Do not leave out any details, even if you feel they may tend to weaken your account. If these details are not known early in the case, they may be used at a later time by the defense attorney to discredit you or to make it look as if you were lying.

However, if you have doubts or suspicions about the appropriateness of some questions, do not hesitate to ask the reasons for them. The police officer should be able to explain to you the reason for every question you need to answer.

Photographs of Your Injuries

Any cuts and bruises which came from the rape should be reported to the doctor and to the detective. The detective may ask someone to take pictures of the injuries you have received. This evidence may be extremely important in a trial long after the cuts and bruises have healed and can no longer be seen. You do not have to agree to have the pictures taken, but you should know that this kind of physical evidence can be very helpful to your case.

Pictures of Rapists (Mug Shots)

The detective may ask you to identify the rapist from a picture. You will view mug shots of several men in an attempt to identify the man who

raped you. You should remember that the appearance of the rapist may have changed considerably from the time the picture was taken and you might be unsure if the picture is of the rapist.

The Polygraph Exam (Lie Detector Test)

You may be asked to take a polygraph examination. You do not have to agree to take it, but it may be to your advantage to do so. A polygraph is a machine that measures various bodily functions such as heart rate, breathing rate and blood pressure. The polygraph expert will ask some neutral questions which have nothing to do with the rape and some questions concerning the rape. The amount of change in your heart rate, breathing rate and blood pressure will indicate the truthfulness of your answers. Positive results from the polygraph exam can strengthen your case.

The Arrest of the Suspect

If you know the rapist or you identified him from mug shots, the police can arrest him as a rape suspect. The detective may also find a suspect based on other evidence that you or others have given, like a license plate number or description of his home. If a suspect is identified, the police will normally obtain an arrest warrant signed by a judge and based on information supplied by you and the detectives. This warrant is then used to arrest the suspect.

After a suspect is arrested, the detective may ask you to look at this man in a lineup of five or six men. During the lineup, the detective will ask all of the men to turn and be viewed from all sides. This will give you a chance to concentrate your attention on each man and to compare him to all of the other men. If you want the men to do or say something that might help you recall more clearly how the rapist looked or sounded, tell the detective. Although you will be in the same room as the men, the lighting is arranged in such a way that they will *not* be able to see you.

The Release of the Suspect

After the rapist has been arrested, he may be released on bail or on his own promise (personal recognizance) that he will appear in court. The judge instructs him that he is not to see you or talk to you at any time or in any way. If he does contact you, report the circumstances to the detective immediately. Any violations of the conditions of his release can be grounds for the judge to increase his bail or to deny him his release and return him to jail.

In our legal system, every accused person is treated as if he were innocent until proven guilty. A man is arrested because he is *believed* to be the person who committed the crime. For this reason, the detective

and the prosecutor will often call the man who is under arrest "the suspect," "the accused," "the alleged rapist," or "the defendant." As the person suspected of committing the crime, he has a right to know that you have accused him of the crime. His lawyer will receive copies of all of your statements taken by the police. Even if you know that the suspect is the man who raped you, he is treated as if he were innocent of the crime until he confesses his guilt or he is proven guilty in a trial.

Juvenile Suspects

If the person who raped you is a juvenile, the rules for an arrest are different than they are for an adult suspect. Ask the detective or prosecutor to explain any special juvenile procedures to you and find out if you will be asked to attend hearings and give testimony.

COURT PROCEDURES

Most rape cases never go to court. Often a suspect cannot be found or there is not enough evidence to charge a suspect. However, if your case *does* go to court, the following procedures may occur.

Interview With the Prosecutor

As the rape victim, you are the main witness for the prosecutor who is the lawyer for the state and represents your interests and those of the community. Before you appear in court, you will probably be interviewed by the prosecuting attorney assigned to your case. During the interview you will be asked to review the details of the rape to help the prosecutor determine whether to file charges against the man you have identified. In making this decision, the prosecutor judges the strength of the case by considering the supporting physical evidence, your potential as a witness, and the availability of other witnesses. Sometimes the prosecutor decides not to file any charges against the suspect. If this happens, you should ask the prosecutor why this decision was made. You have a right to know the reasons the case will not go to court.

You may be concerned about the kinds of personal information that might be brought out during the trial. Many states have new laws that limit what can be said about your background and any previous sexual experiences you might have had. Ask whether such a law exists in your state and discuss what control the prosecutor will have over this information during the trial.

During the interview you should ask the prosecutor to explain words or procedures that you do not understand. Also, you should make sure that you have a name and telephone number to call in case you have additional questions to ask or information to give.

The Defense Attorney

The rapist has a right to have a lawyer represent him during the legal actions. This person is called the defense attorney. The defense attorney might attempt to contact you to discuss the case. You are *not* required to talk to this person. You should ask the prosecutor about this possibility and what you should do or say if the rapist's lawyer does contact you.

Hearings Before the Trial

There are several different types of hearings that might occur before the trial.

Preliminary hearings are held in an open court before a judge. The rapist and his attorney will be present. If your testimony is required, you will probably be asked to describe the rape. The defense attorney will have a right to question you about the details. At the end of the preliminary hearing, the judge reviews the evidence presented. If the judge determines that there is probable cause that the defendant committed the crime, the case will be referred for trial. If the judge does not find probable cause, the case will be dismissed.

Grand jury hearings are held in private before a group of people from the community who decide if there is enough evidence to make a formal charge against the rapist. The rapist and his lawyer will *not* be present. If your presence is required, the prosecutor and citizens on the grand jury will ask you questions. Sometimes the detective will present the facts of the case to the grand jury and you will not be required to attend.

You should ask the prosecutor which kinds of hearings will occur and if you will be required to attend. If you must testify at a hearing, you will receive a subpoena. Read the subpoena carefully; it may ask you to call the prosecutor before going to court. The prosecutor should explain the various procedures to you and tell you about your role. If words are used that are unfamiliar to you, be sure to ask questions. You have a right to know and understand what is happening at each stage.

The Arraignment

The arraignment occurs after the preliminary and/or grand jury hearing. The purpose of the arraignment is to inform the rapist of the charges that have been filed against him, to inform him of his rights, and to allow him to enter his plea of guilty or not guilty. If he pleads guilty, there will be no trial and the judge will set a date for sentencing. However, if he pleads not guilty, the judge will order a trial. You will *not* have to attend the arraignment, but you will want to ask the prosecutor what plea the rapist entered.

Plea Bargains

A plea bargain is a compromise between the prosecutor and the defense attorney whereby the rapist pleads guilty to a crime in order to receive some kind of special treatment. In exchange, the prosecutor is not required to go to trial, you do not have to testify in an open court, and there is no chance that the case may be lost at trial.

The plea bargain can take many forms. If the defendant was involved in more than one crime, the prosecutor may agree to drop some charges

if the rapist agrees to plead guilty to at least *one* crime. The prosecutor may agree to reduce the charge of rape to a less serious crime. The prosecutor may recommend a lesser punishment to the judge in return for the rapist's plea of guilty.

You should talk frankly with the prosecutor about whether a plea bargain is planned in your case. If you are dissatisfied or feel a bargain is unfair, you have a right to a full and understandable explanation.

The Trial

If there is a trial, it will probably occur several months after the rape. The prosecutor will know well in advance when the trial is scheduled. You should let the detective and prosecutor know where you can be reached because they may want to prepare you for the trial. This might include reviewing your police statements—examining pictures and diagrams that have been made of the crime scene—and preparing you for the questions that the defense attorney might ask during the cross-examining. If you have never been to a trial before, you may want to visit the courtroom, become familiar with the surroundings and observe another trial in session.

At the time of trial, the rapist can choose whether to have the case heard before a judge or jury. If he asks for a jury, the defendant's lawyer and the prosecutor will select the members of the jury. The prosecutor will present your side of the case and the defense attorney will give the rapist's side.

You and other witnesses may be ordered to remain outside the courtroom until it is your turn to testify. This ensures that one witness will not be influenced by hearing what another witness says.

It is *not* easy to testify, but it is not as hard as the T.V. and movies make it look. The prosecutor will ask simple questions, knowing what your answers will be. Your job is to tell the truth as clearly and fully as you can. If you do not understand a question, you should ask the prosecutor to repeat it or reword it. Even though it may be difficult or painful for you to talk about the details of the rape, it is necessary for you to testify if the rapist is to be found guilty.

When the prosecutor has finished asking you questions, the defendant's lawyer will begin the cross-examination. These questions will be more detailed and harder to answer than those asked by the prosecutor. Pause and think before you answer and ask the judge to explain if you do not understand. Try to be as relaxed as you can; try not to get angry; do not volunteer any information. If the defense lawyer asks a question that you think shouldn't be asked, do not rush to answer it. Give the prosecutor a chance to object. If the prosecutor does not object and you do not want to answer the question, you may ask the judge if you have to answer. If the judge tells you to answer, you must do so. You may think some questions have nothing to do with the rape and shouldn't be asked, but they may be necessary to satisfy the law.

When you are finished with your testimony, you will be allowed to stay in the courtroom and watch the rest of the trial. If something happens that you think you can clarify, make sure you tell the prosecutor at the next break.

The suspect does not have to testify, and if he does not, the jury is told not to hold that against him. After all the evidence is presented, and each lawyer gives a final statement, the judge tells the jury what laws apply to the case. The case is then given to the jury (or the judge) to decide if the defendant is guilty.

At the trial, the prosecutor must introduce enough evidence to erase any reasonable doubt in the minds of the jurors or judge. A finding of not guilty does not mean that the rapist didn't commit the rape or that you have not told the truth. It may simply mean that there was not enough evidence for the jury to believe without doubt that the rapist was guilty.

If all the members of the jury cannot come to the same decision or verdict, they are called a "hung jury." If this happens, another trial may take place at a later time.

The Sentence

If the defendant is convicted, it may be weeks or months before he receives the sentence which states what his punishment will be. During this time, probation officers will review his past and suggest a sentence to the judge. The prosecutor will also recommend a sentence. If you wish to be involved in the recommendation, you should inform the prosecutor. The prosecutor may suggest that you write a letter to the judge or that you attend the sentencing in order to express your views.

The Appeal

If the rapist is found guilty, he can appeal the decision of the court. An appeal means that a report of the trial will be read by another court to see if there were any legal errors made during the trial. The appeal often takes many months, even years. You will *not* be asked to be present during the appeal. The judge can decide to release the rapist from jail during the appeal. If the jury finds the rapist *not* guilty, neither you nor the prosecutor can appeal the decision.

A Civil Court Suit

You can hire your own lawyer and file a personal injury suit in a civil court against the rapist. In this case your lawyer requests that money be paid to you for the damages caused by the rape like pain and suffering, medical expenses, loss of income and/or property damage. A civil court suit can take a long time and is only worth your time if the rapist is able to pay the damages you are asking.

VICTIM SERVICES

There are people in your area who have worked with sexual assault victims and who are available to help you. In some areas, there are rape crisis lines that you can call and talk to a person who understands what you are feeling and has medical and legal information to share with you. In some cases, these people will go with you to the doctor, the police and court. If you have someone with you who you can talk to and who will answer your questions you might feel more comfortable. If you don't know of a place to get help, ask the doctor, the detective or the prosecutor or call the mental health clinic and ask them to suggest someone. Because rape is a painful and upsetting experience, it is important that you receive good understanding, care and support from those around you.

A GLOSSARY

ACCUSED—See DEFENDANT.

ACID PHOSPHATASE—A test that checks samples of fluid to see if semen is present.

ALLEGED RAPIST—See SUSPECT or DEFENDANT.

APPEAL—A review of the trial record by a higher court to see if any legal mistakes were made.

ARRAIGNMENT—A court hearing where the defendant is told about the charges against him and his rights to have a lawyer and a trial. See page 12.

ARTIST SKETCH—A picture that an artist draws of the rapist from the victim's description.

ANAL SEX—A penis is put into the rectum of another.

BAIL—A sum of money from the suspect left with the court as a promise that, if he is released, he will return to court. See page 9.

BENCH TRIAL—A trial where the defendant does not want a jury and asks the judge to hear the case and decide if he is guilty.

CORROBORATING WITNESS—A person who is able to give information that agrees with the victim's or rapist's statement about the rape.

CROSS-EXAMINATION—The questions asked of the victim by the defense attorney during the trial. See page 11.

CUNNILINGUS—To put one's mouth on the female sex parts.

DEFENDANT—A person who is charged with a crime. See page 9.

DEFENSE ATTORNEY—The lawyer for the defendant. See page 11.

EVIDENCE—Testimony and objects that help to prove either the victim's or rapist's statements. See page 2.

EYE WITNESS—A person who saw a crime take place.

FELLATIO—To put one's mouth on the male sex parts.

GONORRHEA—A kind of venereal disease (V.D.) that people sometimes get when having sex. See page 4.

GRAND JURY HEARING—A legal process where citizens sitting as a jury decide if there is enough evidence to bring the defendant to trial. See page 12.

HUNG JURY—A jury whose members cannot agree that the defendant is guilty or not guilty. See page 15.

JURY—A group of people from the community who listen to the trial and decide if the defendant is guilty. See page 13.

LIE DETECTOR TEST—See POLYGRAPH EXAM.

LINEUP—A group of five or six men who are viewed by a victim or witness to identify the person who committed a crime. See page 8.

MENSTRUAL EXTRACTION—A method of removing the menstrual blood from the body to end a possible pregnancy. See page 5.

MORNING-AFTER-PILL—A medicine that a woman can take for five days to prevent a pregnancy. See page 5.

MUG SHOTS—Pictures of people who have been arrested for a crime. See page 7.

ORAL SEX—To put one's mouth on another person's sex parts.

PERSONAL RECOGNIZANCE—The release of an arrested person on his promise that he will return to court. See page 9.

PLEA BARGAIN—A deal made by the prosecutor and defense attorney where the defendant agrees to plead guilty to a crime so he can receive special treatment. See page 13.

POLYGRAPH EXAM—A machine that measures changes in a person's heart rate, breathing rate and blood pressure while questions are asked. See page 8.

PRELIMINARY HEARING—A legal process where the judge decides if there is enough evidence to bring the defendant to trial. See page 11.

PROSECUTOR—The lawyer (attorney) for the community (state) and represents the interest of the general public in court. See page 10.

RAPE CRISIS LINE—A phone number to call where someone is trained to help you talk about the rape and answer your questions. See page 16.

SEMEN—The milky fluid that carries the sperm. See page 3.

SENTENCING—A legal process where the rapist hears what his punishment will be. See page 15.

SODOMY—A term used to describe oral sex or anal sex.

SUBPOENA—The legal paper that tells a person to appear in court. See page 12.

SUSPECT—A person who is believed to have committed a crime. See page 9.

SYPHILIS—A kind of venereal disease (V.D.) that people sometimes get when having sex. See page 4.

TESTIMONY—Statements made in court by a person who promised to tell the truth.

VAGINA—The opening in the female that leads to the reproductive parts.

VENEREAL DISEASE—Diseases that people sometimes get when having sex. See page 4.

VERDICT—The decision a jury or judge makes at the end of the trial about whether the defendant is guilty.

VICTIM COMPENSATION AGENCY—A public office that gives money to victims of violent crimes. See page 6.

APPOINTMENTS

Medical Appointments

	<u>Date</u>	<u>Time</u>	<u>Place</u>
1. Gonorrhoea Follow-up Test	_____	_____	_____
2. Syphilis Follow-up Test	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

Appointments with Detectives

	<u>Date</u>	<u>Time</u>	<u>Place</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

Appointments with Prosecutor

	<u>Date</u>	<u>Time</u>	<u>Place</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

Court Appearances

	<u>Date</u>	<u>Time</u>	<u>Place</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

**IMPORTANT NAMES
AND
PHONE NUMBERS**

Rape Crisis Line Number _____

Counselor's Name _____

Doctor's Name _____

Phone _____

Police Officer's Name _____

Detective's Name _____

Phone _____

Prosecutor's Name _____

Phone _____

END