



Sexual Coercion and Mandatory Reporting in Colorado

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Learning Objectives

- ✦ Understand the dynamics of sexual abuse and forced sexual contact in adolescents
- ✦ Awareness of the Colorado statute related to sexual consent and coercion in minors
- ✦ Appreciate the mandatory reporting obligations in Colorado

Adolescents and Sexual Assault

- ★ National data shows that teens and young adults have the highest rates of rape and other sexual assaults of any age group
- ★ Statistics reflect substantial underreporting, so reported rates are likely underestimates

American Academy of Pediatrics, Committee on Adolescence. Care of the adolescent sexual assault victim. *Pediatrics*. 2008; 122(2):462-470.

Adolescents and Sexual Assault

- ★ Annual rates of sexual assault per 1000 persons (male and female):
 - 1.2 for ages 12 – 15 years
 - 1.3 for ages 16 – 19 years

Catalano M. *Criminal Victimization, 2003*. Washington DC: Bureau of Justice Statistics; 2004.

Adolescents and Sexual Assault

- ✦ Significant gender differences in reports of adolescent rape and sexual assault:
 - ✦ 176,540 rapes and sexual assaults of females 12 years or older
 - ✦ 15,130 rapes and sexual assaults of males 12 years or older

Catalano M. *Criminal Victimization, 2005*. Washington DC: Bureau of Justice Statistics; 2006.

Adolescents and Sexual Assault

- ★ Studies show that $2/3$ – $3/4$ of all adolescent sexual assaults are perpetrated by an acquaintance or relative of the adolescent

Muram D, Hostetler BR, Jones CE, Speck PM. Adolescent victims of sexual assault. *J Adol Health*. 1995;17(6):372-375.

Peipert JF, Domagalski LR. Epidemiology of adolescent sexual assault. *Obstet Gynecol*. 1994;84(5):867-871.

Adolescents and Sexual Assault

- ✦ More likely to have used alcohol and drugs and are less likely to be physically injured during a rape
- ✦ More likely to delay seeking medical care after a rape/sexual assault and less likely to press charges

Peipert JF, Domagalski LR. Epidemiology of adolescent sexual assault. *Obstet Gynecol.* 1994;84(5):867-871.

Heise LL. Reproductive freedom and evidence against women: where are the intersections? *J Law Med Ethics.* 1993;21(2):206-216.

Adolescents and Sexual Assault

- ✦ Male victims are less likely to report a sexual assault than female victims
- ✦ Studies of sexual assault of males have demonstrated that up to 90% of perpetrators are male

Lacey HB, Roberts R. Sexual assault on men. *Int J STD AIDS*. 1991;2(4):258-260.

Seifert SA. Substance use and sexual assault. *Subst Use Misuse*. 1999;34(6)935-945.

Holmes WC, Slap GB. Sexual abuse of boys: definition, prevalence, correlates, sequelae, and management. *JAMA*. 1998;280(21):1855-1862.

Sexual Assault and Substances

- ☀ More than 40% of adolescent victims and assailants report alcohol or drug use immediately before an assault
- ☀ Increasing association with date-rape drugs
 - Flunitrazepam (Rohypnol)
 - Hydroxybutyrate (GHB)
 - Ketamine
 - Prescription benzodiazepines and over-the-counter antihistamines
 - ALCOHOL – most common date rape drug

Seifert SA. Substance use and sexual assault. *Subst Use Misuse*. 1999;34(6)935-945.

Defining Sexual Assault

- ★ Many terms: rape, statutory rape, acquaintance or date rape, sexual abuse, molestation and incest
- ★ Includes any forced or inappropriate sexual activity
- ★ Sexual contact with and without penetration that occurs because of physical force or psychological coercion with or without consent

American Academy of Pediatrics, Committee on Adolescence. Care of the adolescent sexual assault victim. *Pediatrics*. 2008; 122(2):462-470.

Definition of Sexual Assault

Sexual assault includes:

- ✱ Penile/vaginal intercourse
- ✱ Contact between the genitals and mouth
- ✱ Contact between an anus and a penis
- ✱ Penetration of the vagina or anus with a foreign object, including a finger

Definition of Sexual Assault

When one of the following conditions exist

- ✱ Force, even if there is no bruise or injury
- ✱ Fear, even if the victim didn't fight back
- ✱ A person is disabled and cannot give consent
- ✱ A person is severely intoxicated or unconscious as a result of drugs or alcohol

Further Defining Sexual Assault

- ☀ Includes situations in which victim is unable to consent because of:
 - Intoxication
 - Inability to understand the consequences of his or her actions
 - Misperceptions because of age
 - Other incapacities
- ☀ Can include touching of a person's "sexual or intimate parts or the intentional touching of the clothing covering those intimate parts"

American Academy of Pediatrics, Committee on Adolescence. Care of the adolescent sexual assault victim. *Pediatrics*. 2008; 122(2):462-470.

Adolescent Perceptions

- ✱ May have been voluntary participation before the assault occurred
- ✱ May think that he/she may not be believed
- ✱ May feel guilty, be worried parents will restrict them from social activities, or have little memory of event

Adolescent Perceptions

- ★ Unwanted sexual encounters common
 - Large survey of middle- and high-school students
 - 18% of females and 12% of males reported unwanted experience
- ★ Rape during childhood/adolescence associated with risky behaviors and mental health problems

Erickson PI, Rapkin AJ. Unwanted and illegal sexual experiences among middle and high school youth. *J Adolesc Health*. 1991;12(4):319-325.

Sexual Coercion...

The act of persuading a person into engaging into an unwanted sexual activity through

- ⇒ physical force
- ⇒ threats
- ⇒ emotional manipulation
- ⇒ impairment of power

Unlawful sexual contact 18-3-404 CRS

Sexual Assault or Consensual sex?



Sexual Assault when...

- ★ Victim is less than 15 years old and the actor is 4 or more years older
- ★ Victim is at least 15 years of age but less than 17 and the actor is at least 10 years older

How Might You Become Aware of Child Abuse/Neglect?

- ✦ When injuries are noticed on a child
- ✦ When a child makes allegations of child abuse/neglect to you or you overhear allegations
- ✦ When a client tells you child abuse/neglect is happening in their home or in the home of someone they know
- ✦ When you observe signs of neglect
- ✦ When you witness or hear actual incidents of child abuse/neglect

Presentations of Sexual Assault

- ★ Statement of abuse/abuse witnessed
- ★ Brought in by DHS/LE for non-acute exam as a part of investigation
- ★ ED after suspected abuse for medical eval, evidence collection, and crisis management
- ★ Suspicion of abuse based on behavioral or physical symptoms
- ★ Routine physical exam and abuse detected

What Do I Do Now?

- ✦ Detailed history for purposes of medical treatment
- ✦ Assessment of mental health status
- ✦ Physical examination
 - ✦ Evidence collection (if indicated)
 - ✦ STI testing (+/-), pregnancy testing
 - ✦ Evaluation for injury
- ✦ STI/pregnancy prophylaxis
- ✦ Follow-up care
- ✦ Reporting

Reporting suspected child abuse and/or neglect

Who should report?

ANYONE who witnesses or suspects that a child or children may be being abused or neglected CAN and SHOULD make a report!



Mandated Reporters

- ✱ Mandated to report known or suspected child abuse and neglect
- ✱ Failure to report
- ✱ Reporting Procedures
- ✱ Proof of Reporting
- ✱ Confidentiality & Immunity From Liability unless....
- ✱ Follow up???

WHAT is reported?

- **Specific Disclosure** by child/youth or guardian
 - Fondling of body parts, penetrating assault, other injuries of physical abuse
- **Non-specific concerns** of guardian
 - Behaviors, physical complaints or signs of trauma, unusual concerns or complaints
- **Acute sexual assault (“rape”)**
 - Usually self-evident by history

WHEN is abuse reported?

- **Spontaneous disclosure** by child/youth
- **Delayed disclosure** of child/youth more common than immediate and does not invalidate the concern of abuse
- After visitations, during bathing or toileting, at bedtime, at time of a physician exam, family conflict
- **Context** of chronic abuse / neglect / custody disputes / violence in home

WHO is involved in the report?

- **Victim** or victims, co-victims (siblings, daycare kids, neighborhood kids)
- **Alleged Perpetrator and relationship** to both the victim and the reporter
- **Witnesses:** includes child/youth, adults, guardians
- Family members and **custody or guardianship** of child is important to establish
- **Reporting party** (parent, guardian, MD, SW, relative, teacher, daycare worker)

WHERE did abuse occur?

- **Incest** with family member or guardian
- **Third party sexual assault**
- **Other settings:** daycare, fostercare, school, person or place of authority or position of trust

To Whom to Report

- ★ **Third party abuse** (any person who is not a parent, stepparent, guardian, spousal equivalent) is reported to law enforcement *where the crime occurred*
- ★ **Intrafamilial abuse** (within a family context or by any person who resides in the child's home or who is regularly in the child's home for the purpose of exercising authority over the child) is reported to the department of Human Services *where the victim lives*

What information is needed when making a report...

- ☀ Name, address, age, and sex of the child and family members
- ☀ Name and address of the person responsible for the suspected abuse or neglect if the alleged perpetrator is not an immediate family member
- ☀ Nature and extent of the child's injuries, including any knowledge of previous cases of known or suspected abuse or neglect of the child or the child's siblings
- ☀ Name, phone number, and occupation of the person making the report
 - Any action taken by the reporting source
 - Relationship to the child
 - Any other information that the person making the report believes may be helpful
- ☀ Promptly providing a written report to the county department or law enforcement agency where the report was made becomes *proof* that a report was made

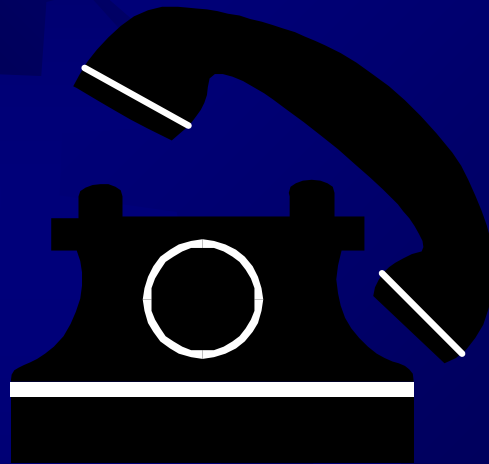
Legal Issues

- ✦ Medical evaluation is an *examination by a medical professional with the primary aim of diagnosing and determining treatment for a patient's complaint*
- ✦ When becomes the possible commission of a crime, realize legal concerns
- ✦ Mandatory reporting
- ✦ Penalties for failure to report
- ✦ Involvement in civil, juvenile, family court, divorce/custody, and criminal proceedings

Legal Issues

- ✱ In civil proceedings, the standard is “*a preponderance of the evidence*”
- ✱ In criminal proceedings, testify “*to a reasonable degree of medical certainty*”
- ✱ Discuss cases with local experts, CPS, law enforcement
- ✱ Sharing of information

WHEN IN DOUBT....



REPORT !!

A Child/Youth's Very Life, Safety and Welfare Could Depend On YOU!

Please do not hesitate to call DHS and consult if you are concerned.



For More Information – Please Contact:

Your local Department of Human/Social
Services

Colorado Department of Human Services
303-866-5932

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