THE HEALTH CARE PRACTITIONER'S ROLE IN THE MANAGEMENT OF VIOLENCE AGAINST WOMEN IN SOUTH AFRICA

Domestic and intimate partner violence is becoming increasingly common in South Africa.

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Increasingly, the literature in South Africa (SA) suggests that domestic or intimate partner violence is the most common reason for a woman to present to her health care practitioner (HCP). Intimate partner violence has multiple, complex physical and psychological consequences and places an overwhelming health burden on women, their families and the health care system. This cost has never been calculated in SA, but a report from the UK estimates that the cost of intimate partner violence in England and Wales in 2004 was £22.9 billion.[1]

Violence against women is as pervasive as tuberculosis and inextricably linked with HIV/AIDS. Women in SA still struggle to negotiate safe sex and are disproportionately the victims of rape and intimate partner violence. This is not new, but it has been accentuated by the impact of HIV. Apart from the obvious focus of HIV-related violence, violence against women (VAW) is a major public health problem. Unfortunately it is still not recognised as such and so suffers from poor, almost non-existent, resource allocation. The only recompense for the majority of women in SA are those HCPs who are diligent when assessing them for abuse and treat them holistically and with dignity.

In their world report on violence,[2] the World Health Organization (WHO) also addresses the costs of VAW, concluding that it has:

- direct costs related to injuries sustained, illnesses, disability and deaths due to violence, absenteeism and turnover of staff
- indirect costs related to decreased work functionality, inferior quality of outputs and service and lack of competitiveness
- less tangible costs related to poor organisational image, lack of motivation and morale, decreased loyalty, less creativity, and environmental conditions not conducive to productivity.

Estimates of domestic violence (DV) in SA suggest that between 1 in 4 and 1 in 6 women suffer some kind of abuse at the hands of an intimate partner.[3] The spectrum of abuse recognised as DV ranges from emotional, verbal

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and economic, to physical and sexual, and in some cases, death. A recent national study has found that in 1999, 4 women were murdered by an intimate partner every day in SA.[4] SA also has one of the highest incidences of reported rape cases in the world, giving us the dubious reputation of being the 'rape capital of the world'. It has also been suggested that the annual incidence of reported rape in SA is greater than incidences reported during armed conflicts.[5]

RELEVANT BACKGROUND

Recognising the high levels of violence against women and the inadequacy of the state to effect appropriate justice and related care to victims, legislators have attempted to provide redress through law reform. This includes redefining the common law crime of rape[a] as well as the promulgation of the Domestic Violence Act (Act 116 of 1998) (DVA). In terms of the DVA, DV is described as any abusive behaviour that controls or harms the health, safety or wellbeing of a person or any child cared for by that person (Table I). The proposed Sexual Offences Bill aims to revise both the substance of the common law on rape, as well as numerous procedural and evidentiary aspects of the trial process to improve justice for sexual assault survivors.

The DVA *implies* that HCPs have a duty to attend to domestic violence cases and the Sexual Offences Bill may place an *actual* legal duty on HCPs to correctly assess and manage cases of sexual assault. In addition, there are numerous international codes that prescribe HCP duties towards caring for women in DV relationships. The WHO and the Federation of International Gynaecologists and Obstetricians set out the following obligations when dealing with women in abusive relationships:[6,7]

- To do no harm to your patient.
- Always ensure confidentiality of the patient's records.
- Recognise the existence and occurrence of domestic violence.
- To develop appropriate tools and interventions to combat domestic violence in the health care setting.
- Health care practitioners must share their knowledge of their abused patients with social services and the criminal justice system.
- Health care practitioners must be aware of the symptoms and signs of abuse.
- Where possible,[b] universally screen all female patients.
- Manage all physical and psychological injuries and document these in detail.
- Ensure that patients are referred to the appropriate social, community and legal services.

COMMON HEALTH PROBLEMS SEEN IN ABUSED WOMEN

Acute

- Injury
  - Unexplained / inconsistent injuries
  - Ocular injuries
  - Upper arm injuries consistent with grabbing
  - Cigarette burns
  - Fractures not explained by history
  - Genital injuries consistent with forced sexual intercourse
- Pregnancy / miscarriage / unsafe TOP[c]
- Sexually transmitted infections / HIV infection
- Death.

Chronic

- Physical
  - Chronic bowel disorders
  - Reduced physical functioning
  - Fibromyalgia
  - Chronic pain syndromes
- Gynaecological
  - Sexual dysfunction/vagismus
  - Infertility
  - Pelvic inflammatory disease
- Psychological
  - Post-traumatic stress disorder
  - Alcohol and substance abuse
  - Anxiety and depression
  - Sleep and eating disorders
  - Suicidal ideation
  - Psychosomatic disorders
  - Unsafe sexual practices.

Fatal

- Femicide
  - Non-intimate homicide
  - Intimate femicide
  - Rape homicide
- Maternal deaths
- HIV/AIDS-related mortality
- Suicide.

EXAMINING WOMEN SUFFERING FROM DOMESTIC VIOLENCE

Background

HCPs should adopt a more holistic approach to the overall health care of women, instead of focusing only on the patient's symptoms. This includes paying attention to particular signs of chronic abuse. Internationally, screening for DV is generally advocated for all female patients (referred to as universal screening[d]). The Consortium on Violence against Women[e] proposed policy and management guidelines for the screening of DV in a provincial government health model.[8] This model was based on a successful model for the management of sexual assault survivors[9] adopted by the provincial government Western Cape Health in 2000. This document, which contains guidelines, and a domestic violence examination protocol form, can be obtained from the authors.[f]

In this article, DV is taken to include all forms of abuse suffered by women. This ranges from the various forms of violence, as defined by the DVA, in a

Table I. **Definitions of domestic violence according to the Domestic Violence Act (116 of 1998)**

- **Physical abuse:** any act or threatened act of physical violence
- **Sexual abuse:** any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant[m]
- **Emotional, verbal and psychological abuse:** a pattern of degrading or humiliating conduct towards a complainant including repeated insults, ridicule or name calling; repeated threats to cause emotional pain; or the repeated exhibition of obsessive possessiveness or jealously, which is such as to constitute a serious invasion of the complainant's privacy, liberty, integrity or security
- **Economic abuse:** includes the unreasonable deprivation of economic or financial resources to which a complainant is entitled under law or which the complainant requires out of necessity ... or the unreasonable disposal of household effects or other property in which the complainant has an interest
- **Intimidation:** uttering or conveying a threat, or causing a complainant to receive a threat which induces fear
- **Harassment:** engaging in a pattern of conduct that induces the fear of harm to a complainant including repeatedly watching or loitering outside or near the place where the complainant resides, works or studies; repeatedly making telephone calls; and repeatedly sending or delivering telegrams, packages, electronic mail or other objects to the complainant
- **Stalking:** repeatedly following, pursuing or accosting the complainant
- **Damage to property:** the willful damaging of destruction of property belonging to a complainant or which the complainant has a vested interest
- **Entry** into the complainant's residence without consent, where the parties do not share the same residence
- **Any other controlling or abusive behaviour** towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the complainant

In terms of the DVA, the abuser may be ordered by the court:

- Not to commit certain acts of domestic violence
- Not to enlist others to commit acts of domestic violence
- Not to enter the complainant's residence
- Not to enter the shared residence or a specific part thereof
- Not to enter the complainant's place of work
- Not to prevent a complainant or child from entering or remaining in the shared residence
- To pay rent, mortgage payments or household necessities
- To pay emergency monetary relief
- To have no contact/supervised contact with the children

Possible criminal charges that may be laid (under the common law):

- Breach of a protection order
- Assault
- Indecent assault
- Assault with the intent to do grievous bodily harm
- Rape
- Incest
- Attempted murder
- Malicious damage to property
- Pointing a firearm
- *Crimen injuria*

domestic relationship (Table I).[9] It also includes any other form of common law assault against a woman, such as assault, assault with intent to commit grievous bodily harm and attempted and actual homicide, as well as all other forms of sexual violence such as indecent assault, attempted rape and rape.[h]

Many women who are victims of violence do not easily volunteer information about their abusive situations. Remember that, when examining a woman who has suffered sexual or domestic violence, detailed medical notes may contribute to positive judicial outcomes for any number of the legal options that the patient may pursue. Completing departmental protocols, making detailed medical notes in the patient's folder and completing the J88[i] are crucial to this process. The J88 and the GW 7/15[i] are currently the only recognised legal medical forms and, although prosecutors can subpoena medical records, the only medical records that appear initially in a docket are the J88 in a case of assault (physical or sexual) and the GW 7/15 in the case of an unnatural death. Prosecutors make decisions on proceeding with prosecution on the basis of the details contained in these medical records, so it is particularly important to document the appropriate positive and negative information on these forms.

Screening for abuse

The decision to screen women for domestic violence lies with the HCP. There is at present no government health policy that prescribes mandatory screening for domestic violence. Although the DVA makes reference to the victim obtaining medical assistance, there is no specific legal duty set out in the Act for HCPs to provide medico-legal assistance to victims of domestic violence, although, where the police require a J88 for a criminal investigation, the HCP must conduct an examination. Apart from this, the onus of care rests with the HCP. This includes the careful recording of the history of how the injuries happened, the proper documentation of injuries and the willingness to testify in court

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for any criminal trial should that materialise. Unfortunately, many HCPs are hesitant to become involved in these cases because of potentially testifying in court. HCPs need to realise that their contribution to the court process often has a great impact on the outcome of the case and ultimately on the victim's safety. Careful history taking, detailed documentation and court testimony may mean the difference between life and death for patients. Proper, detailed notes taken at the time of presentation can always be interpreted by another expert for the purposes of the court and, at the time of examination, or shortly thereafter, these experts can be contacted to assist with interpretation of findings.

HCPs engaged in clinical forensic practice should never feel alone or isolated. There are many experienced practitioners in SA who can assist, perhaps not at the time of examination, but certainly with the interpretation of injuries and with preparation for court. The important message for the HCP who examines victims of violence is to record all injuries on the body with measurements, to ensure detailed descriptions of the injuries and to provide the correct anatomical position on the body with indicators from prominent anatomical points, such as the midline and heel. Take photographs where possible.

HCPs who have to testify in court can contact any of the academic forensic units in SA to obtain advice, to go through their potential testimony and to fully interrogate their J88 findings. There is an ethical and moral obligation to always do the best for patients, including abused women, regardless of any anticipated bad experience in court.

Early identification of abuse at home can reduce its incidence and consequences as well as reduce the potential for further abuse. Screening for domestic violence is advocated in two forms:

- universal screening – asking all women in all settings, or asking all women in a specific settings (e.g. in an antenatal clinic)
- selective screening – asking women whose presenting complaint suggests DV (e.g. unexplained bruises or anxiety).

There are currently no policy guidelines on what form of screening should be employed. When deciding what methods to employ, think about the following principles :

- the safety and security of your patient
- privacy and confidentiality must be ensured
- being non-judgemental and supportive
- training to conduct proper examinations, treatment and referrals
- knowledge of support and referral agencies attached to or close to your health facility.

How to ask

International literature shows that, irrespective of whether or not women have been abused, they value domestic violence screening questions by HCPs.[10] As always, a sympathetic and supportive attitude will go far in encouraging women to talk about their experiences. The HCP should acquire additional skills through training. At a health care facility, clinic or individual practice decide on whether universal or selective screening will be employed. Because of the nature of DV, universal screening is recommended. Direct or indirect questions can be asked.[8]

Indirect questions

- How are things in your relationship?
- Your symptoms may be related to stress. Do you and partner ever fight?
- Do you feel this way when your partner gets angry?
- Does your partner have any problems with anger, drugs, alcohol or gambling? Does this affect his behaviour with you or the children?

Direct questions

- As you may know it is not uncommon for women to have been abused in their relationships and this may affect their health. Has this ever happened to you?
- I often see injuries like yours when someone has been hit. Did this happen to you?
- Has your partner ever hit you?
- Has your partner ever forced you to have sex when you didn't want to?
- Has your partner ever threatened you, or your children, or your family?
- Has your partner ever isolated you from family or friends, or refused to give you money, or belittled you in public, or told you how to act or dress?

What to do

All health care facilities should have a policy in place for patients who disclose DV. Readers are referred to: *Screening for Domestic Violence: A Policy and Management Framework for the Health Sector.*[k]

Patients who disclose DV should be assessed according to a standardised protocol and examination format. All patients presenting with signs of DV must be believed and treated with the appropriate dignity and confidentiality. No patient should ever be turned away from a health care facility or be treated with scepticism after disclosure of DV. At best, a criminal charge will be laid by the police, which requires the completion of a J88 by the HCP. The J88 is not just a document that increases the workload of the ordinary HCP; it is the *only* document that facilitates your patient's access to justice. It is also the document that the prosecutor will read and use to decide whether to consult with the HCP and proceed with prosecution. The J88 must include the HCP's full contact details. (For guidelines on completion of the J88 see Muller K & Saayman G. *Clinical Forensic Medicine: Completing*

the Form J 88 – what to do and what not to do. **http://www.edoc.co.za/modules.php?name=News&file=article&sid=421**. (Accessed 16/10/05)).[11] The HCP should do any special investigations which are deemed necessary. This may include the following steps:[8]

- Documenting the exact words used by the patient.
- Taking a history, including
  - the identity of the abuser and his relationship to the patient
  - the types of abuse experienced by the patient
  - the present complaint as well as previous incidents
  - symptoms.

- The examination should include:
  - all injuries measured with a ruler; recorded anatomic position; nature, age and healing of injuries; consistency with how the injuries were sustained and all injuries drawn on a body sketch
  - photography – call the SAPS photographer from your local Criminal Records Centre of the SAPS, or clinic facility if not reported to the SAPS.

The above should constitute the minimum amount of detail recorded in the patient's folder. All this information should then be transferred to the J88. The J88 may be requested by the patient or an investigating officer, either at the time of examination or at a later date. Patients who are assessed for DV should also undergo a cursory safety assessment. A victim of domestic violence is always in danger of further abuse – and even death – whether she stays in the abusive relationship or tries to leave the abuser. The HCP needs to find out whether the patient feels unsafe. If this is the case, refer the patient to a local organisation working with victims of domestic violence, a social worker or the police.

EXAMINATION OF SURVIVORS OF SEXUAL VIOLENCE

The examination of survivors of sexual violence should be done by a senior HCP with experience in these types of cases. This has recently been acknowledged as a specialised examination by the National Clinical Forensic Medicine Committee,[l] who have sent a recommendation to all Heads of Departments of Health for all provinces that interns and community medical officers should not perform sexual assault examinations without spending some time at a recognised academic institute, first gaining clinical hands-on experience or performing the examination under the supervision of an experienced clinical forensic doctor. The detailed sexual assault examination protocol will not be outlined here. See Martin LJ, *et al.* Forensic and clinical management of rape. *CME*, 2002; **20**(4): 240-247 for a comprehensive description of this examination.[12]

Since the publication of that article the South African Police Service (SAPS) have produced an updated version of the sexual assault evidence collection kit (SAECK). The latest version is comprehensive and contains specific, step-by-step instructions on how to collect the forensic evidence from the body of a sexual assault survivor as well as a detailed instruction booklet with full-colour diagrams. Also included in the SAECK is a carbonised J88 form and numerous additional swabs. There is individual packaging for swabs from each body area, which makes the collection of biological evidence easier than it was with the earlier versions of this kit. In addition, the National Department of Health have published guidelines for examination of sexual assault survivors which includes an example examination form.[13,14] These guidelines are based on a combination of the protocols published by the WHO[15] and those in use in the Western Cape, and are therefore locally relevant.[16]

The policy documents and guidelines mentioned in this article can be obtained from the authors.

References avaliable on request.

Footnotes

[a]Rape and other sexual crimes are redefined in a Bill that has yet to be finalised and tabled to Parliament: Criminal Law (Sexual Offences) Amendment Bill 2003 (draft bill).

[b]With due regard to the safety of the patient.

[c]Termination of pregnancy.

[d]Universal screening, in the published literature, is taken to mean asking all women in all settings, or asking all women in a specific setting such as antenatal care or primary health care, about domestic violence.

[e]The Consortium on Violence against Women consisted of the Gender, Law and Development Project of the Institute of Criminology at UCT; Rape Crisis Cape Town; the Gender Project of the Community Law Centre at UWC; the Division of Forensic Medicine & Toxicology at UCT; and a health consultant (previously from the Women's Health Research Unit at UCT).

[f]Also available at **http://web.uct.ac.za/depts/sjrp/public.htm#GENDER**

[g]Domestic violence can be described as the loss of dignity, control and safety as well as the feeling of powerlessness and entrapment experienced by women who are the direct victims of ongoing or repeated physical, psychological, economic, sexual and/or verbal violence or who are subjected to persistent threats or the witnessing of such violence against their children, other relatives, friends, pets and/or cherished possessions by their boyfriends, husbands, live in-lovers, ex-husbands or ex-lovers, whether male or female.

[h]Including domestic homicide, intimate partner homicide (intimate femicide) and rape homicide (fatal sexual assault).

[i]The J88 is the 'official' document from the Department of Justice that has to be completed by HCP for any case of reported assault (physical and sexual).

[j]The GW 7/15 is the 'official' form for documentation of an autopsy examination in the case of an unnatural death.

[k]Available from the Gender, Health and Justice Research Unit, University of Cape Town. Contact Lillian Artz.

[l]The National Clinical Forensic Medicine Committee is a ministerial appointed committee in terms of the National Health Act (Act 61 of 2003).

[m]Complainant means any person who is or has been in a domestic violence relationship and has been subjected to an act of domestic violence, including any child in the case of the complainant.

IN A NUTSHELL

- Domestic or intimate partner violence is an increasingly common reason for a woman to present to her health care practitioner (HCP).
- Intimate partner violence has multiple, complex physical and psychological consequences and places an overwhelming health burden on women, their families and on the health care system.
- Estimates of domestic violence (DV) in SA suggest that between 1 in 4 and 1 in 6 women suffer some kind of abuse at the hands of an intimate partner.
- In terms of the Domestic Violence Act, DV is described as any abusive behaviour that controls or harms the health, safety or wellbeing of a person or any child cared for by that person.
- The proposed Sexual Offences Bill aims to revise both the substance of the common law on rape, as well as numerous procedural and evidentiary aspects of the trial process to improve justice for sexual assault survivors.
- The DVA *implies* that HCPs have a duty to attend to DV cases and the Sexual Offences Bill may place an *actual* legal duty on HCPs to correctly assess and manage cases of sexual assault.
- Health problems arising from DV may be acute or chronic and are not confined to sexual problems or injuries.
- Internationally, screening for DV is generally advocated for all female patients (referred to as universal screening).
- Detailed medical notes may contribute to positive judicial outcomes for any number of the legal options that the patient may pursue.
- The J88 and the GW 7/15 are currently the only recognised legal medical forms and, although prosecutors can subpoena medical records, the only medical records that appear initially in a docket are the J88 in a case of assault (physical or sexual) and the GW 7/15 in the case of an unnatural death.
- The J88 is not just a document that increases the workload of the ordinary HCP; it is the only document that facilitates your patient's access to justice and is used by the prosecutor to decide whether or not to pursue a case.
- The examination of survivors of sexual violence is the job of a senior HCP with experience in these types of cases.