

DRUG-FACILITATED SEXUAL ASSAULT

KEY CONCEPTS	
Sexual assault	Drug-facilitated sexual assault
Investigating drug-facilitated sexual assault	Prosecuting drug-facilitated sexual assault

The following is a summary of key issues relating to drug-facilitated sexual assault for police and prosecutors, taken from a publication by the National Center for Women and Policing (2001) *Successfully Investigating Acquaintance Sexual Assault*.

INTRODUCTION

The use of drugs to facilitate a sexual assault is a well-known phenomenon. Alcohol is the most common drug used to facilitate sexual assault. In studies of college students conducted in the United States of America, alcohol was found to be involved in most rapes:

- In the one study, 75% of men and 50% of women involved in a sexual assault had been drinking at the time.
- In another study, more than half of the male college students who admitted to sexually aggressive behaviour (59%) said that they used drugs or alcohol to obtain sex from women who did not consent (The National Center for Women and Policing 2001:4).

Since consent is an element of the crime of rape and sexual assault, alleged perpetrators will often raise the defence that the victim consented in crimes of this nature. The use of alcohol by the victim is also used to attack her credibility and imply that she consented. In cases of sexual assault and rape, there is often very little forensic evidence and the case then falls to be decided on the credibility of the victim versus the accused. The use of alcohol is typically perceived to be “risky” behaviour, and girls who take part in risky behaviour are perceived to be “bad girls” (The National Center for Women and Policing 2001:4). So called “good girls” do not drink, do drugs or flirt with men in public.

Alcohol as a drug used to facilitate sexual assault is often overshadowed by other, more publicised drugs, like Rohypnol (flunitrazepam). The latter drugs also engender more sympathy for the victim, because the drugs are usually administered surreptitiously, and the victim does not appear to have indulged in “risky behaviour.” This contributes to the societal stereotype that the real victim is the person who has been given the drug surreptitiously (“good girl”) while the one who has taken it voluntarily is viewed as the “bad girl.” This focus on voluntary consumption versus involuntary consumption often affects the way investigators approach these cases with the latter being regarded as “real rape” while the former does not receive serious attention.

The reality, however, is that drugs are used voluntarily by both juveniles and adults, and this should not be used as a basis for questioning the victim’s story. In fact, it is argued that the consumption of alcohol or other drugs can be used to corroborate the victim’s evidence. A large number of sexual assaults involve alcohol or other drugs because they increase the vulnerability of the victim (The National Center for Women and Policing 2001:5). This evidence can serve as a way to support the

victim's version. Investigators need to be aware of how victims who voluntarily consume alcohol or drugs are perceived by the courts, especially since consent is an element of the offence, and how this complicates cases so that they can overcome these difficulties. This is done by focussing the investigation on other areas that can corroborate their evidence.

THE USE OF ALCOHOL

Alcohol is the most popular and prevalent drug used for recreational purposes today, and one of the few drugs that is legal. Although other drugs are used to facilitate sexual assault, alcohol still remains the primary method of facilitating sexual assault, but is often overlooked. Flunitrazepam (Rohypnol) and GHB (gamma hydroxyl butyrate) are also drugs that have become very popular to facilitate sexual assault. These drugs are more effective because they not only sedate the victim but also induce a form of amnesia so that the victim has very little memory of the assault. GBH has been used in a medical setting as a general anaesthetic and for certain conditions. Illegally it is used as an intoxicant to increase athletic performance and as a date rape drug. In the latter case, it is used to numb a person in order to rape that person. It makes the victim feel groggy and sleepy, and he or she will not remember what happened. This makes the gathering of the evidence and the identification of the perpetrator very difficult. Alcohol and drugs, depending on the type and amount, will cause the victim to experience confusion, impaired motor skills, impaired judgement, reduced inhibition, slurred speech and a number of other symptoms.

Despite the existence of these more effective drugs, alcohol is still the primary drug of choice. The type of alcohol consumed by people is known as ethanol. Ethanol is a small molecule that is easily and quickly absorbed into the body. Once a drink is swallowed, it enters the stomach and small intestine where the alcohol quickly enters the bloodstream via the concentration of small blood vessels. It is important to remember that alcohol is a sedative and is the most commonly used drug to facilitate sexual assault.

Despite this, adolescents are exposed to a lot of media that presents social drinking as being very "cool" and acceptable, and are pressured by peers to drink, so it must be accepted that the majority of adolescents do partake in alcohol. The effects of alcohol will depend on the amount of alcohol consumed as well as the physical size of the person drinking. Although alcohol is often differentiated from other drugs, it can be as dangerous when consumed in large amounts. If consumed in large amounts, alcohol can have the same effects as drugs like Rohypnol and GHB. Therefore, investigators are urged to be aware that any drug, including alcohol, used to sexually assault someone amounts to drug-facilitated sexual assault. If investigators do not regard alcohol as a drug in this context, they will miss many of the techniques used by sex offenders.

INVESTIGATING DRUG-FACILITATED SEXUAL ASSAULT

It is important to have an understanding of the victim in this situation, especially as the majority of these victims do not disclose. The victim does not have a proper recollection of what took place, so they will probably never know what was done to them. This will cause the victim to feel helpless. They will feel guilty because they voluntarily went with the perpetrator and voluntarily consumed the alcohol. Also, they will think that nobody will believe them, especially as they do not have a recollection, or very little, of what happened. This will intensify the symptoms normally experienced as a result of rape trauma syndrome.

A study was conducted in 1997 (The National Center for Women and Policing 2001:1) to investigate what factors influence a prosecutor's decision to prosecute in a sexual assault case. Researchers found that the basis for the decision to prosecute was primarily determined by the victim's perceived character and behaviour at the time of the assault. This study revealed that:

- Prosecutors were 5 times more likely to prosecute if there were no questions about the victim's moral character;
- Prosecutors were 2.5 times more likely to prosecute if the victim did not engage in any risky behaviour at the time of the assault; and
- Prosecutors were 4 times more likely to prosecute if the victim reported the sexual assault to the police within an hour.

It would seem from this that prosecutors tend to base their decision to prosecute on the victim's background and reputation, their relationship to the accused, and their behaviour at the time of the incident. In the above study the prosecutor's decision was not affected by other evidence or other measures of seriousness. This study shows the importance of good police investigation, and the important role that police play in finding evidence that corroborates the victim's allegation.

Therefore, if the decision to prosecute is based on the victim's character and behaviour, then it is the responsibility of police to search for corroboration of every aspect of the victim's story to boost his or her credibility. Police must focus on supporting the victim's credibility by proving that their version is what happened.

The following information on how to investigate cases of this nature has been adapted from *Successfully Investigating Acquaintance Sexual Assault: A National Training Manual for Law Enforcement*, which was developed by the National Center for Women and Policing. There are a number of challenges that arise when investigating cases of sexual violence, especially where the accused has raised the defence that the victim consented to the sexual act. These include:

- Lack of physical resistance by the victim;
- Inconsistent or untrue statements by the victim; and
- Delayed reporting.

All of these challenges tend to be present in cases of drug or alcohol facilitated sexual assault, which is what complicates these cases. Because of the nature of the drugs used, victims will typically display symptoms of drowsiness, memory loss and reduced inhibition, which will result in a lack of physical resistance on their part, and confused and delayed reporting.

Lack of physical resistance

Some drugs depress the central nervous system, and this results in impaired judgement, impaired motor skills, drowsiness and even loss of consciousness. The effect of these drugs makes it very difficult, if not impossible, for the victim to resist an assault by fighting back or running away, which are regarded by society as the appropriate reactions. This is the very reason that the offender has used the drugs or alcohol, and they will even use it to support their version of events and use it to prove that the victim consented. For example:

- "We were drinking together. We got so drunk we didn't know what we were doing."
- "She was having a party, and really getting pissed. She kept flirting with me."

The fact that the victim was drinking and did not fight back is viewed with suspicion in the criminal justice system. The implication is that the victim consented but has subsequently changed their mind or is lying. Accounts of sexual assault by victims who have been drugged or are under the influence of alcohol tend to be confused, and they often described the incident as though it happened to somebody else.

How to overcome this challenge:

- Conduct an effective interview
- Do not be judgemental so that the victim can tell their story honestly
- Do not ask questions that appear to blame the victim
- Corroborate their story through witness interviews, the interview with the accused and the collection of evidence
- Do not ask leading questions

Leading questions and judgmental questions are not productive. Judgmental questions embarrass the victim, especially where the victim has voluntarily consumed alcohol, and they also tend to imply blame. This is exacerbated where drugs are involved, because the victim knows that what they did was illegal, and may try to hide this from the investigator. So questions like "How much did you drink?" can be counter-productive, and they will have a negative impact on the credibility of the witness. Leading questions, on the other hand, are particularly dangerous in this scenario because the alcohol or drugs may have impaired the victim's memory. The victim may then unconsciously try to fill gaps in their memory, which results in false or inconsistent statements. The use of open-ended questions becomes even more important in cases of this nature.

The following example is supplied by the National Center for Women and Policing (2001:13):

"I know that this question is difficult to answer and I want you to know that I am only asking you this question to get a clear picture of all the facts in this case. I am very sorry about what has happened to you and I do not think that you are responsible for what happened. Any questions I may ask regarding possible drug use by yourself and the offender serve only to better my understanding of what happened and will help me to investigate and corroborate your case."

Some tips:

- Clarify what has been said by summarising the information back to the victim to ensure that there are no misunderstandings.
- Do not interrupt the victim when they are speaking.
- Give the victim an opportunity to recall the information on their own first.
- Do not rush the victim, and reassure her that they have sufficient time to think about things and tell their story.
- Create a non-judgmental environment so that the victim feels comfortable talking about what happened, including their possible use of drugs or alcohol.
- Be sure not to phrase questions in a way that suggests blame as this will make the victim upset and angry.

Inconsistent or untrue statements

In cases of drug-facilitated sexual assault, often the victim may make inconsistent or false statements about their own drug usage. It is not uncommon for a victim to deny taking drugs and then testing positive for alcohol, cocaine or other drugs. The reasons for this could include the following:

- Victims often feel uncomfortable about giving information about their use of drugs to the police because they are afraid of being blamed or even arrested. Investigating officers should, therefore, inform the victim what the purpose of the interview is and that the victim will not be arrested for illegally using drugs. The victim's co-operation is very important here for determining whether the alcohol or drug was used to facilitate the sexual assault.
- The other reason may be that victims are not aware that they have taken drugs where they have been surreptitiously dosed at a party and then they are later given cocaine or methamphetamine by literally blowing it up their noses.

- The victim may claim that they were surreptitiously drugged but the toxicology tests may be negative. This does not mean that the victim is lying. It is difficult to obtain a positive screen with many of the drugs used to facilitate sexual assault because these drugs are metabolised out of the blood and urine so quickly. Since the victim may have passed out for a number of hours, a positive urine screen will be unlikely.

What this means is that the investigating officer needs to find evidence that will corroborate the victim's story without the positive toxicology results. The investigating officer should not be discouraged or even surprised by these results. It is important to remember that a victim of a drug-facilitated sexual assault will tend to have an inaccurate chronology of events and a sense of confusion as a result of the drugs.

Some tips:

- Explain to the victim how important it is for them to provide correct information and ask them to clarify their statements.
- Ensure that the victim understands that they will not be blamed or punished for participating in either legal or illegal drug use.
- Reassure the victim that their drug usage does not make them any less of a rape victim.
- Keep the number of interviews to a minimum to reduce the chances of inconsistent statements being made.
- Address inconsistencies or lies in the victim's statement without becoming sceptical of the victim's story.
- Explore issues regarding inconsistent statements in a non-judgmental way.

Delayed reporting

Delayed reporting is typical of sexual assault. Victims delay reporting for many different reasons. This is also true for victims of drug-facilitated sexual assault. Reasons include:

- Many of these victims feel disorientated or "hung over" for several days after the assault, and are unable to report the crime for days or even weeks.
- The victim may blame themselves and feel responsible because they participated in the drinking or drug usage before the assault.
- Victims may be afraid that they will be arrested for illegal drug use or that they will be punished by parents or family.

Some tips:

- Let the victim tell her story completely and use only open-ended questions in the interview.
- Document everything.
- Assure the victim that you do not blame them and that delayed reporting is typical in this situation.
- Investigating officers should have a knowledge and understanding of the symptoms of various drugs and the physical patterns associated with them.

The strongest tool in addressing the challenges associated with drug-facilitated sexual assault is through the meticulous collection of evidence and documentation. This includes physical evidence from the victim, witness interviews, the crime scene(s), expert evidence and a complete investigation of the suspect.

Evidence collection should focus on corroborating the victim's version of drug use (voluntarily or surreptitiously) and the events surrounding the sexual assault. In the vast majority of these cases, the defence will be consent so evidence that supports the victim's credibility must be sought. So, if the victim says that she voluntarily took cocaine, the investigating officer must find evidence that will

support her version, like toxicology results and evidence at the scene. This will assist in proving her vulnerability while under the influence of the drug.

EVIDENCE COLLECTION

Indicators of drug-facilitated sexual assault

The following are indicators that the victim may have been drugged to facilitate a sexual assault:

- The victim reports that they were under the influence of a drug during the sexual assault (legal or illegal drug).
- The toxicology tests indicate that the victim was under the influence of drugs.
- The victim says that they were having drinks with their friends but they only had 1 or 2 drinks, which does not accord with the high level of intoxication they experienced.
- The victim says that they felt “strange” and then suddenly became “very drunk.”
- The victim reports that they became very intoxicated very quickly, within 5 to 15 minutes.
- The victim reports that they woke up 8 hours or later, unsure about what happened but believes that she has been raped because she is experiencing vaginal soreness or other signs of sexual activity.
- The victim reports that witnesses told them they suddenly appeared drunk, drowsy, dizzy, confused with impaired motor skills and impaired judgment.
- The victim reports symptoms of amnesia.
- They have strange memories, bits of scenes where they remember waking up or even seeing the accused having sex with them but being unable to move and then passing out again. The memories can be associated with a loud noise or pain.

The role of the first responding officer

Because of the very nature of drug-facilitated sexual assault, many victims may not have a memory of the events necessary to explain the crime. It is, therefore, important that the first responding officer must be able to identify a victim of drug-facilitated sexual assault. The following procedural issues are relevant if it is suspected that a drug-facilitated sexual assault has taken place:

- If the drug has been ingested within 96 hours, the victim should be advised not to urinate. The period of time that Flunitrazepam, GBH or other rape drugs remain in the urine or blood will depend on a number of variables, including the amount ingested, the victim’s body size and rate of metabolism, whether the victim had a full stomach and whether she had already urinated. A urine specimen is preferable to a blood specimen because drugs and their metabolites can be detected in urine for longer periods.
- Different drugs remain in the urine and the bloodstream for different periods:
 - Benzodiazepines (like Rohypnol): 4 – 12 hours in blood and 48 – 96 hours in urine
 - GHB: 4 – 8 hours in blood and up to 12 hours in urine.

The general rule is that Benzodiazepines are not typically detected in the urine after 48 hours.

- If the victim has to urinate, tell them to save their sample in a clean container with a tight fitting lid. It is best to get the first urine sample because it will most likely contain metabolites of the drug they were given, which can be used to identify the drug. The metabolites are excreted with each subsequent urine sample and it is less likely that they will remain in sufficient quantities to be identified.
- The first responding officer must obtain a urine sample for toxicology testing if it is suspected that a drug was ingested within 96 hours.
- If the drug was ingested within 12 hours, the victim must be taken to a medical facility for a blood sample to be obtained. The blood is drawn to test the level of ethanol in the body, because symptoms could have been caused by the combination of the alcohol and the drugs.

The Victim

The major challenge in cases of this nature is the fact that the victim ingested drugs, whether voluntarily or not. This is used against the victim in court and implies risky behaviour on her part, which lessens her credibility and increases her culpability. The other big problem is the loss of evidence as a result of the nature of the drugs themselves. Many of the drugs metabolise so quickly in the body that it becomes difficult to detect them in the victim. This is exacerbated by the fact that victims delay the reporting of the sexual assault.

The investigating officer must try to work out what the effects on the victim will be of the drugs used to facilitate the assault, and look for evidence that corroborates that. Evidence to be collected could include the following:

- If the drugs were ingested within the previous 96 hours, a urine specimen is required to be taken at a medical facility.
- If the assault occurred within 8 hours of the report, blood and urine samples should be obtained.
- The blood and urine must be screened as soon as possible for traces of Flunitrazepam metabolites, GHB, Ketamine and any other possible drugs.
- If present, vomit should also be collected in addition to the above. As much of the liquid and the solid parts of the vomit should be collected as possible and placed in appropriate containers.
- If the vomit is on clothing or on a sheet, then the clothing or sheet must be taken and placed in an appropriate container.
- The investigating officer must also document what drugs were ingested in the last 5 days that might have contributed to the incapacitation of the victim.
- The date and time when the drug was probably ingested as well as the date and time when the specimens were collected must be clearly documented.
- The victim's unwillingness to share information about their voluntary drug consumption or lack of memory may mean that there are inconsistencies between their evidence and that of the toxicology results. Any inconsistencies must be immediately clarified with the victim in a non-judgmental manner, explaining why this is being done so that the victim does not feel as though they are being blamed.
- The victim must be given an opportunity to ask questions and express their concerns. They should be fully informed about what drugs will be tested for and that certain drugs are difficult to detect. It should also be explained that a negative result does not mean that they were not raped and that a drug could still be used for these purposes.

CRIME SCENE AND EVIDENCE COLLECTION

In the case of a drug-facilitated sexual assault, there are at least 3 potential crime scenes:

- the place where the drug was ingested
- the place where the drug may have been bought or manufactured, and
- the place where the victim was sexually assaulted.

It may be that these are all the same place or there may be multiple crime scenes. It is very important for the investigating officer to check the location where the victim last remembers having been for any evidence and even witnesses.

Investigating officers should look for the following at the place where the sexual assault took place:

- standard sexual assault crime scene evidence
- phone messages indicating witnesses or details of the event
- objects that may have been used to penetrate the victim

- semen and blood stains – use alternate light sources to locate stains

Investigating officers should look for the following at the crime scene or the suspect's car or residence:

- packages of Flunitrazepam and other drugs
- empty bubble packages and other material in which drugs could be packaged
- any prescriptions, sleeping tablets, muscle relaxants and sedatives
- alcohol bottles and mixers
- check punch bowls for drug residue
- glasses, cans, bottles for drug residue
- possible vomit from the victim
- videotapes or camera equipment
- pornographic literature containing material on drugging women to facilitate sexual assault
- any internet information on Flunitrazepam and GHB and on the use of these drugs
- check medicine cabinets for prescription drugs – many offenders will use drugs that are readily available
- since consent is usually the defence in these cases, it is important to find evidence that the victim was incapacitated by drugs
- identification evidence is also important because of the possibility of mistaken identity
- identification is also important to detect the possibility of multiple defendants (“gang rape” situation)

THE SUSPECT

From a historical perspective, the sexual assault investigation has focused primarily on the victim and their credibility. It is argued that, because investigating officers spend most of the time trying to prove that the victim is “not a bad girl,” they forget to investigate properly whether the suspect is really the “bad guy.” In the case of drug-facilitated sexual assault, the alleged perpetrator may admit that sexual intercourse took place and even admit that they were both under the influence of a drug or alcohol, but that it was all consensual. Investigating officers should, therefore, thoroughly investigate the suspect by trying to collect evidence that discredits the alleged offender's version of the events, and thereby supports what the victim is saying. The following areas should be investigated:

Background information of the accused

The following background information would be of great assistance:

- What are the accused's dating practices?
- What is his reputation among his friends/ co-workers – is he known as a “ladies man;” does he have a reputation for sexual conquests?
- Does he boast about his sexual exploits?
- Does he routinely bring different women home?
- Does he have a girlfriend while dating other girls on the side?
- Has any former date or girlfriend accused him of rape or sexual misconduct?
- Has anybody ever seen women leaving his room/ house upset or crying?
- Does he talk about videoing or photographing his sexual exploits?
- Does he use pornography?
- Did he talk about making a conquest that night or getting a girl drunk?
- How did the accused organise the date?

By finding out this kind of background information, the investigating officer will have a better idea of what took place before the assault, which will provide a better understanding of the scenario in its

entirety. This information will not only further the investigation, but will also give the prosecutor better evidence to paint the scene in court.

Witness interviews

Witness interviews provide important information that can be used to corroborate the victim's version of what transpired. If, for instance, the witnesses say that the victim was drinking a lot of wine and this is what the victim is saying, then their evidence corroborates her evidence. If witnesses say that she was very drunk, then it would be easier for the prosecutor to argue that she did not have the capacity to consent.

It is also very useful to interview as many friends, enemies and acquaintances of the accused as possible. Often suspects in these cases show off quite openly about their conquests of women who are under the influence of alcohol or drugs.

The investigating officer should interview anybody else who may be able to confirm the victim's version of the event, and find out whether there are any security videos available. This should be done quickly since most tapes are copied over.

Where the victim has been surreptitiously drugged, witnesses must be interviewed about whether they noticed anything unusual when the victim left. This could provide corroborating evidence for the victim's version of events. But it should be borne in mind that most drugs used to facilitate rape can cause the victim to become passive. They may say that they saw the victim and the accused leave the party together and that the victim appeared to be doing so voluntarily. This must not be seen as discrediting the victim. As many drugs like GHB and Flunitrazepam sedate the victim and often cause confusion and disorientation, the victim's "voluntary" actions may have been as a result of the drugs.

The difficulties that are present in cases of drug-facilitated sexual assault are not necessarily undefeatable, and there are a variety of investigative techniques that can assist. Investigating officers simply need to be thorough and creative.

The facts in the case, *S v Odhiambo* 2020 (1) SACR 266 (WCC) reveal the difficulty that victims have in reporting a case of drug-induced sexual assault. Here the police refused to accept the matter when the complainant went to the charge office, and she was forced to see a private doctor. According to the facts of the case, it was alleged that the complainant, accompanied by her blind boyfriend and a male friend, had dinner at a restaurant and afterwards went upstairs to the bar at about midnight. The applicant was the on-duty barman. They chatted to another bar tender, G, who was not on duty, and the complainant bought a round of tequila shots for all of them, including the applicant. G offered her another, but knocked it over and offered her a free replacement. He made the cocktail behind a set of bottles so she could not see what he was doing. Within a few minutes of drinking the cocktail, she became confused and unable to focus on what G was saying to her. At that point the complainant's boyfriend and male friend left to use the bathroom. The last thing she remembered before blacking out some 10 - 15 minutes after drinking the cocktail was watching them leave the bar to go to the bathroom.

Her next recollection was waking up in a bedroom four to five hours later wearing only her underwear. The applicant was lying on top of her, completely naked, kissing her chest and stomach. She asked him to stop but he persisted, telling her that he wanted to kiss her vagina, and began to remove her underwear. Ignoring her protests, he forced her to touch his penis. She managed to

elbow him and push herself off the bed onto the floor, where she saw her jeans. She tried to stand but could not balance and fell back onto the floor where she pulled on her jeans. She could not find her shirt (the applicant eventually told her that it was in the bathroom; he had washed it because she had vomited onto it). She also could not find her spectacles and struggled to see.

Sitting on the couch in the lounge, she telephoned her friend, T, for help. She noticed that her handbag and shoes were next to the couch. The shoelaces had been removed. She got up and tried to unlock the front door. At that point the applicant came out of his bedroom, angrily asking her why she was trying to leave. She persuaded him to unlock the door on the pretext of wanting some fresh air. She remembered the applicant thereafter accompanying her to the Caltex garage where she had arranged to meet T, but he left before T arrived. She briefly explained to T that she thought her drink had been spiked, she had woken up with the accused naked on top of her, that her entire body hurt, and it was possible that she had been raped. T told her that she needed to sleep first, and he would thereafter take her to the police station and to a clinic for HIV medication.

After sleeping for a while she called her mother, who arranged for a family friend(s) to take her to the police station. T accompanied them. After being turned away by the police who told her that 'there was no point in opening a case, nothing would come of it', she was taken by the family Tator to the local Mediclinic where she was examined by a doctor.

T described the complainant, when he fetched her at the garage, as "a mess. Her hair was ruffled and messed up and she was holding her shoes in her hand. Those were dirty. She was cold. She did not have her glasses. She seemed dazed, confused . . . she smelled as if she had been vomiting . . . and I noticed that her jersey was wet . . ." He explained how the complainant broke down when reporting to him what had happened.

The DNA report reflected that the only DNA found on the complainant's vulva and vagina was her own. However, there were traces of the applicant's DNA on both her panties and jeans. On her jeans, at least three males (including the applicant) contributed to the DNA mixture. **Also handed in by** agreement, and admitted, was the form J88 report completed by doctor who examined the complainant. The injuries noted were a 'love bite' on the complainant's neck, a scrape on her right knee, bruising to her left shoulder, left elbow and right buttock, a tear to the posterior of the fossa navicularis, and two fresh tears of the hymen accompanied by swelling. The doctor also noted redness on the inner side of the complainant's legs. Her conclusion, confirmed in her subsequent testimony, was that there were signs of vaginal penetration that had occurred within the preceding 24 hours.

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