



The Shukumisa Campaign was developed by the National Working Group on Sexual Offences, a network of 26 civil society organisations from around South Africa. The purpose of the Shukumisa Campaign is to monitor the implementation of laws and policies relevant to sexual offences and, in so doing, ensure the effective implementation of these measures.

**Forensic nursing:
Why it would help rape survivors and
what needs to be done to put it into practice**

Briefing Note

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1. INTRODUCTION

In the aftermath of a sexual assault, survivors may require treatment for a range of health-related concerns such as pregnancy, possible infection with HIV and other sexually transmitted infections (STI), injuries, as well as symptoms of psychological distress. If a charge has been laid, then a medico-legal examination to collect forensic evidence will also be necessary. While much of this care has traditionally been provided by doctors, the last few years have also marked the entry of forensic nurses into this arena. No opposition to this development has been voiced, with those routinely working with forensic nurses only praising this move. However, the lack of formal recognition afforded forensic nursing has created a lacuna in both policy and practice. This briefing paper, prepared by members of the Shukumisa Campaign, sets out what needs to be done to ensure that forensic nursing services become available to all victims of sexual offences, whether adult and child.

1.1. The problem: Lack of specialized care to rape survivors

One of the objectives of the Department of Health's National Sexual Assault Policy is the establishment of 'designated, specialized, accessible, 24 hour health care services.' There are many benefits to achieving this objective, including:

- a) *Improved medico-legal examinations and evidence* ó well-done medico-legal examinations and accurate documentation completed by trained and knowledgeable health workers may significantly increase the likelihood of rape cases progressing through the criminal justice system.
- b) *Improved treatment of victims* ó in the aftermath of a sexual offence, victims are highly susceptible to the opinions and judgments of others, as well as being in need of supportive crisis intervention. An examination performed by someone ignorant of the psychological impact of rape and who freely dispenses judgment and blame can only aggravate victims' psychological distress.
- c) *Reduced waiting period* ó Having a designated, specialized health worker available at health care facilities may cut down the lengthy waiting periods that victims endure. Such a person would know, as would other staff, that their priority is the provision of forensic services, meaning that other duties must be postponed in favour of those requiring such services. .
- d) *Court testimonies* ó Persons that undergo forensic training are aware that one of their duties includes testifying in court and they are therefore prepared for such duties. They would not fail to appear in court, or be reluctant to testify as is sometimes the case with medical officers who are not dedicated to these services.

However, in practice, these benefits are the exception rather than the rule. Contrary to policy, rape survivors are treated more often than not by busy, inadequately-trained general doctors working in the under-staffed casualty sections of hospitals. The shortage of doctors is even more acute in rural areas and further complicated by the use of foreign doctors who often have no

language in common with rural populations. The appointment of forensic nurses would fill these gaps.

2. WHAT IS FORENSIC NURSING?

The practice of forensic nursing may be defined as:

“the application of the nursing process to public or legal proceedings, and the application of forensic health care in the scientific investigation of trauma and/or death related to abuse, violence, criminal activity, liability and accidents.”¹

Forensic nursing includes a number of sub-specialties (such as Forensic Psychiatric Nurse; Forensic Correctional, Institutional or Custodial Nurse; Legal Nurse Consultant, Nurse Attorney and Nurse Coroner). Of particular interest to this Briefing Note are the Forensic Nurse Examiner (FNE) and the Sexual Assault Nurse Examiner (SANE).

The FNE is a registered nurse trained to perform forensic examinations and testify in court as an expert witness. FNEs deal with persons of all ages who may have experienced some form of criminal or liability-related trauma. By contrast, a SANE is a registered nurse with advanced education and clinical preparation in the forensic examination of sexual assault victims alone.² However, the SANE is evolving to encompass the role of the FNE as they begin to care for victims of interpersonal violence, as well as a wider range of forensically significant public health concerns.³

The United States, Great Britain and Canada have employed forensic nurses in different capacities for decades, while forensic nursing initiatives are emerging in countries such as India, China, Pakistan and Japan. There is also evidence to support the value of forensic nursing to rape survivors. One South African study has already shown that it is possible to improve the quality of care to rape survivors in a rural setting by training nurses to become the primary providers of this care.⁴ In the US, preliminary evidence suggests that SANEs do indeed promote the psychological recovery of victims; provide comprehensive and consistent post-rape care; accurately document evidence and improve the prosecution of sexual offences; and create community change by bringing multiple service providers together.⁵

There is also no barrier to forensic nurses providing services to rape survivors in South Africa. The National Sexual Assault Policy developed by the Department of Health, states that the “skilled health care provider” referred to in the Policy includes a medical officer, specialist or nurse who has received the appropriate and necessary training. Forensic nurses are currently to be

¹ Lynch, V. 2006. “Forensic Nursing Science” in Hammer, R.M., Moynihan, B. Pagliaro, E.M *Forensic Nursing: A Handbook for Practice*. Jones and Barlett Publishers.

² Little, K. Sexual Assault Nurse Examiner (SANE) Programs: Improving the Community Response to Sexual Assault Victims. 2001. Office for Victims of Crime Bulletin. US Department of Justice

³ Lynch, V.A. Clinical Forensic Nursing: A New Perspective in the Management of Crime Victims from Trauma to Trial. 1995 Critical Care Nursing Clinics of North America

⁴ Kim, J, Askew, I, Muvhango, L, Dwane, N, Abramsky, T, Jan, S, Ntlemo, E, Chege, J and Watts, C. (2009). “Comprehensive care and HIV Prophylaxis after sexual assault in rural South Africa: the Refentse intervention study” in *British Medical Journal* 338: b515

⁵ Campbell, R, Patterson, D and Lichty, L. (2005). “The Effectiveness of Sexual Assault Nurse Examiner (SANE) Programs” in *Trauma, Violence and Abuse* 6(4): 313-329.

found in the employ of NGOs such as Women and Men Against Child Abuse (WMACA), iThemba Rape and Trauma Support Centre and Mosaic, as well as by the Gauteng, Western Cape, KwaZulu-Natal, Mpumalanga and Northern Cape provincial Departments of Health.

But while forensic nursing may be a promising practice, very little of such nurses' work, or performance, has been examined. To fill this gap, the organizations Rape Crisis Cape Town Trust (RCCTT), Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), Mosaic, Teddy Bear Clinic, WMACA, Justice and Women (JAW), Thusanang Advice Centre, iThemba Rape and Trauma Support Centre and the Tshwaranang Legal Advocacy Centre (TLAC) have provided reflections on their experiences with forensic nurses. These identify three obstacles to the effective utilization of forensic nurses: the content and length of their training; the lack of formal recognition of their specialized knowledge and skills; and their remuneration.

2.1 Training

Generally speaking, training to health care workers around the examination and care of rape survivors still leaves a good deal to be desired. Training in forensic nursing specifically is however, available from the following three academic institutions: the University of the Free State (UFS), the University of Cape Town (UCT) and the University of Pretoria (UP).

- The UFS offers the most comprehensive training program in this area. Their Advanced University Diploma in Forensic Nursing runs for one academic year and includes modules addressing ethos and professional practice; healthcare and the law; pharmacology; healthcare management; and introductions to HIV and AIDS care. In addition to their theoretical training students are expected to complete 120 hours in a victim support unit, 16 hours with a forensic pathologist, 16 hours with the SAPS and 16 hours with a state prosecutor.⁶ Students are also expected to pass an exam to qualify for their certificate.
- UCT offered a pilot SANE training program in 2008. This provided two-three weeks of theory training and two-four weeks of practical training. The course content covered the medical, psychological and social aspects of sexual violence, as well as appearing in court. As a result of the pilot course, UCT anticipates revising the programme to provide one week of theory and another for practical training.⁷
- The Continuing Education department at UP offers a five day course in forensic nursing. The content of the course includes a focus on victimology, which sensitizes nurses to the plight of various types of victims, as well as forensic criminalistics, which addresses handling criminal evidence with care. No training on court testifying is mentioned and nor is it specified as to whether or not practical training is included in this training. No form of assessment is undertaken on the course's conclusion.⁸

The provincial Departments of Health in Gauteng, KwaZulu-Natal and Western Cape have also been identified as providing forensic nursing training.

- The first group of nurses to be trained in this area was based in the Northern Cape. However, the subsequent deployment of these nurses by the provincial health department

⁶ <http://www.uovs.ac.za/faculties/documents/08/071/PostBasicProg/Forensic%20Nursing%20-%202007.pdf>

⁷ <http://www.uct.ac.za/downloads/uct.ac.za/continuinged/continuingeducation09.pdf>

⁸ <http://www.ceatup.co.za>

- was not optimal,⁹ with very few of those trained subsequently placed in positions where they could practice their skills. It would also not appear as if this course has been repeated in the province.
- In 2001 a Forensic Nurse Examiner training programme was launched by the KwaZulu-Natal MEC for Health. According to newspaper reports the training was provided by one of the pioneers of forensic nursing in the US, Virginia Lynch.¹⁰ It is unknown whether or not this training was repeated.
 - The Gauteng Department of Health offers a 10-day training program for both medical professionals and professional nurses with specialties in midwifery or psychiatric nursing. The course covers collection of evidence, examination of victims of assault, completion of the J88 form and giving expert testimony in court.
 - In 2006, as part of a research project on PEP compliance, a doctor attached to UCT also piloted a SANE training programme at the Thuthuzela Care Centre in Manenberg in the Western Cape. Three nurses were trained and supervised by a doctor for the 12-month duration of the project. This pilot programme has not been replicated.

As this snapshot illustrates, considerable diversity exists amongst these various programmes. The duration of training varies between five days and one year (with obvious implications for the content and depth of each course) and only one programme would appear to assess competency on completion of the training. Nonetheless, each course ostensibly produces a qualified forensic nurse. Not unsurprisingly, as the organization Mosaic observes, in practice real, observable disparities exist amongst these differently-trained nurses. (The Simelela Centre managed by Mosaic employs both a UFS-trained nurse as well as a nurse trained in UCT's SANE model.)

A second, related issue arises around which model of forensic nursing should be adopted: the FNE or the SANE. Given the staff shortages in the health sector, the FNE may be the more pragmatic choice, given that they can perform a wider range of duties. Although the SANE would be ideal, at this point it appears unlikely that many forensic centres would be able to recruit both a SANE as well as a FNE.

A third question arises around the supervision of forensic nurses, which is clearly dependent upon the quality of training provided, the extent to which supervision and mentoring is built into training programmes, as well as whether or not nurses' competence is assessed on completion of the training. The Teddy Bear Clinic suggests that forensic nurses should spend time working in a clinic with doctors before they work alone. Mosaic also suggests forensic nurses should be supervised and mentored for them to work competently. However, a forensic nurse trained by the Department of Health and employed by WMACA, reported that forensic nurses can examine patients in the absence of a doctor as soon as they have completed the Department's training.¹¹ The extent, duration and nature of such nurses' supervision thus needs to be clarified to prevent situations where inexperienced casualty doctors, purely by virtue of their position in the health hierarchy, supervise more-knowledgeable nurses, or undertake examinations themselves. At the same time, newly-qualified nurses do require the support and guidance of doctors and nurses experienced in the area of forensics.

⁹ Department of Health (2004). *National Sexual Assault Policy*. Pretoria: Department of Health

¹⁰ Speak Out at http://www.speakout.org.za/legal/police/police_forensic_nurses.html

¹¹ Mataboge, M. "Picking up the Pieces" Available from, <http://www.peacewomen.org/news/SouthAfrica/Jan04/pieces.html>

2.2 Formal recognition of forensic nursing

Forensic nursing is not recognized as a specialty by the South African Nursing Council (SANC). Some courts also do not recognize forensic nurses as expert witnesses competent to testify knowledgeably on the findings of the medico-legal examination. In some provinces this has however, been successfully challenged.

- According to JAW, WMACA and nurses in the province, the KwaZulu-Natal courts do not recognize forensic nurses as experts at all and their testimonies are not accepted in court. However, the KwaZulu-Natal Department of Health continues to train forensic nurses reports WMACA ó which cannot employ such nurses at their Kidz Clinics due to the courtsørefusal to accept their testimonies.
- In parts of Gauteng and the Western Cape, forensic nurses were also not initially recognized as experts by the courts. In Gauteng the provincial Department of Health, through consultation with the Department of Justice, fought for the recognition of forensic nurses and their testimonies are now accepted by the courts in Johannesburg. However, WMACA notes that in Pretoria no facilities would appear to employ forensic nurses so it is unknown how the courts in this region would react to forensic nursesø evidence.
- Forensic nursesø evidence has now become accepted by the Western Cape courts due to the efforts of the National Prosecuting Authority (NPA) and the provincial Department of Health.

3.3 Remuneration

Currently there is no uniform rate of remuneration for forensic nurses. Further, because the SANC does not recognize forensic nursing as a specialty such nurses do not qualify for the Occupation Specific Dispensation (OSD). Forensic nurses thus receive low levels of pay for performing functions for which medical officers are paid significantly more ó so undermining the principle of equal pay for equal work. This situation both fails to recognise the specialised skills of those currently practising forensic nursing and potentially discourages other nurses from training in this area. It also undermines the policy of increasing rape survivorsø access to quality health services.

3. RECOMMENDATIONS

It is hard to imagine the grounds on which anyone could reasonably oppose the inclusion of forensic nursing within a comprehensive strategy to address the healthcare needs of rape survivors. Indeed, their utilization can only improve the current, imperfect state of affairs. However, it is clear that particular measures need to be put in place before the full value of forensic nursing can be realised.

Section 66(3)(a) and (b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, no 32 of 2007 (SOA) empowers the Director-General of Health, in consultation with the Minister of Health, to issue directives to health workers aimed at achieving the objects of the SOA. Further, the SOA instructs the Director-General to develop training courses òwith a view to ensuring that as many medical practitioners and any other relevant persons as possible are able to deal with sexual offences cases in an appropriate, efficient and sensitive manner.ö This training should also provide for and promote the use of uniform norms, standards and procedures.

We therefore recommend that:

- the Director-General convenes a working group including medical practitioners, nursing professionals, NGO service providers, academic teaching institutions and other relevant stakeholders to determine the content, length, scope and nature of training to forensic nurses. This should also address how such nurses are to be assessed and supervised on completion of their training;
- The Department of Health should develop and gazette directives around forensic nurses;
- The Department of Health should also fund the posts of forensic nurses employed by organisations in the non-profit sector;
- The SANC must re-examine their unwillingness to recognise forensic nursing as a speciality as a matter of urgency; and
- Once the training and Directives have been finalised, the Department of Justice and Constitutional Development, along with the NPA, should educate court officials around the value and use of forensic nurses' testimony.

Members of the Shukumisa Campaign and National Working Group on Sexual Offences include:
Agisanang Domestic Abuse Prevention And Training (ADAPT), AIDS Legal Network, Childline SA, Centre for the Study of Violence and Reconciliation (CSV), Greater Nelspruit Rape Intervention Project (GRIP), Justice and Women (JAW), Lethabong Legal Advice Centre, Masimanyane Women's Support Centre, Mosaic Training, Healing and Service Centre for Women, Nisaa Institute for Women's Development, OUT LGBT Well-being, People Opposing Women Abuse (POWA), Port Elizabeth Rape Crisis Centre, Rape Crisis Cape Town Trust, Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), Sex Workers Education and Advocacy Task Team (SWEAT), Sonke Gender Justice, Teddy Bear Clinic, Thohoyandou Victim Empowerment Programme (TVEP), Tshwaranang Legal Advocacy Centre (TLAC), Thusanang Advice Office, Women and Men Against Child Abuse (WMACA), Women's Legal Centre, Women's Net