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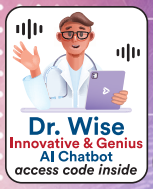

Essentials of Forensic Nursing

As per the Revised INC Syllabus for BSc Nursing

Semester V

Rimple Sharma
Pawan Kumar Sharma

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CHAPTER

3 Forensic Team

Rimple Sharma

Chapter Outline

- Forensic Team: Members and their Roles
- Comprehensive Care of Victim and Family
- Admission and Discharge/Referral/Death of Victim of Violence
- Responsibilities of Nurse as a Witness
- Role of Forensic Nurses: Observation, Recognition, Collection, Preservation of Evidence
- Documentation of Biological and Other Evidence Related to Criminal/Traumatic Event
- Forwarding Biological Samples for Forensic Examination

FORENSIC TEAM

Forensic team works with people who present an active or high risk to others, due to their mental health status or their contact with the criminal justice system. These people may intend to do homicide or attempted murder, wounding with intent, rape, attempted rape and sexual assaults, as well as fire setting (when reckless or with intent to endanger life).

This team is responsible for:

- Nursing and medical support
- Psychological assessments of mental health needs
- Helping with social care needs and risk factors
- Collecting related fingerprint evidence
- Locating, isolating, collecting, analyzing, comparing and identifying fingerprints primarily in a laboratory environment
- Maintaining proficiency in current and evolving equipment, techniques, and procedures
- Operating and conducting latent searches
- Operating and maintaining photographic and other equipment
- Photographing crime scenes
- Preparing and maintaining records and reports
- Preserving evidence integrity
- Processing and developing photographs
- Providing expert testimony

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The ultimate goal of investigation of any offence is to disclose the truth about alleged offence and detailed planning and consistent execution are integral in achieving this goal. A carefully constructed team of professionals is essential to the success of the investigation. The team may require a combination of skills. Consideration should be given to ensure a good mix of personnel from different departments to create a diverse mindset. The team's primary responsibility is to gather facts, data, and any evidence while establishing the sequence of events that led up to the event that prompted the investigation. They also analyze the data and draw conclusions based on their findings.

Roles and Responsibilities of Team Members

Role and responsibilities will often be dictated by the organizations' policies. A typical team structure may include:

Team Leader

The team leader's role is to:

- Direct the investigation;
- Communicate and liaise with stakeholders and external parties as required;
- Assign duties to the team;
- Obtain the services of specialist advisers as required;
- Schedule and coordinate investigation activities and resources;
- Supervise the preparation of the investigation report;
- Brief management on the team's findings.

The team leader should:

- Be trained and competent in applying incident fact-finding and analysis tools;
- Have previous experience of comparable scale investigations;
- Be skilled in the effective management of a small investigation team;
- Be able to act as a liaison between senior management and the investigating team.

Investigation Team

The team's role is to:

- Collect data, facts, and evidence;
- Establish the sequence of events leading up to the occurrence;
- Analyze and integrate available information;
- Develop findings and conclusions;
- Determine the significance of the findings;
- Write the investigation report;
- Present the report to management.

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The team should:

- Have an analyst who has been trained and experienced in incident analysis techniques and has facilitated at least two significant incident investigations;
- Have collective managerial, technical, and investigative skills;
- Have members with open and logical minds who are thorough, able to maintain perspective, and can overcome preconceptions or bias;
- Have at least two of the team who have attended formal accident investigation training;
- Include personnel with subject matter expertise in areas related to the accident;
- Have access to specialist consultants, advisors, or technical personnel as required;
- Have access to legal advice.

The team should not:

- Have a supervisor and his/her subordinate serve on the same team;
- Have members that have been selected solely on availability.

Investigation Team Qualities (Figure 3.1)

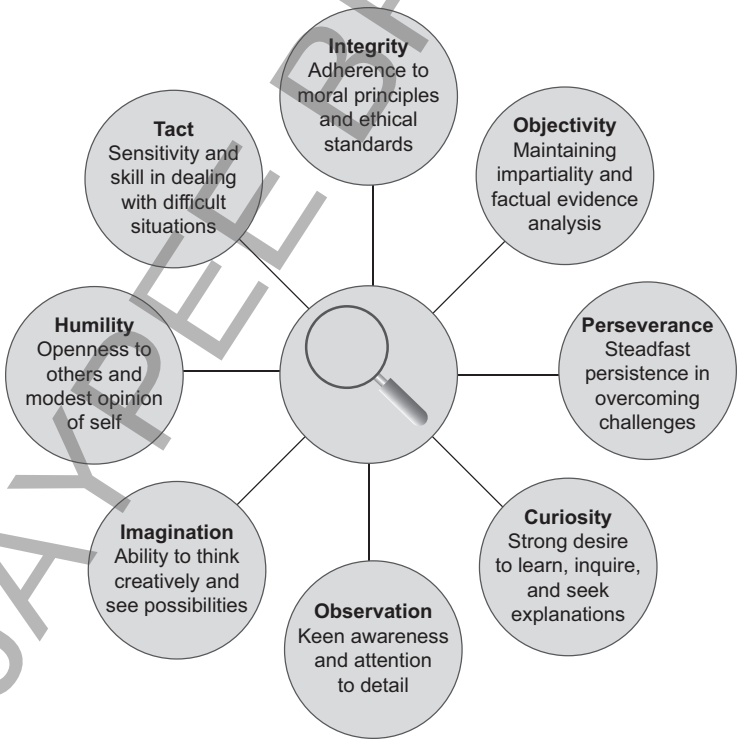

Fig. 3.1: Essential qualities of investigator.

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Certain qualities are essential to an investigator. Every investigation also requires the team to have subject matter specialists having detailed knowledge of the matter being investigated.

Among the fundamental qualities are:

- **Integrity:** Being honest and not able to be influenced by anything that may compromise investigations' objectives.
- **Objectivity:** To be able to analyze data fully, including contradictory evidence, and avoid reaching premature conclusions;
- **Perseverance:** Being able to ascertain the root cause of issues, identify deficiencies in evidence, and trace them back to the organizational factors within the system;
- **Curiosity:** Being inquisitive and showing hunger to know more, to ask probing questions, and to seek deeper explanations of initial findings;
- **Observation:** To be able to see things as they are and look through usual deceptions;
- **Imagination:** To view things as they might and ought to be and mentally contrasting them with things as they are;
- **Humility:** To be able to admit that others may understand some aspects of the investigation better and offer credible observations and ideas;
- **Intuition:** To be able to recognize theories and ideas as they emerge after the collection of data for analysis;
- **Tact:** Demonstrating patience to overcome reticence to reveal self-critical information and to use that information to enhance the investigation, not the investigator;
- **Technical skills:** For equipment examination, photography, mapping, recording, and writing are important but secondary to the skills of perception described above.

Having the correct individuals who can function as a team is integral to ensuring that the investigation meets its set objectives and scope timely.

A typical forensic investigation team might include (Fig. 3.2):

- **Arson investigator:** Arson investigators are forensic professionals who gather evidence at the scene of a fire to determine how it happened. They visit the crime scene in person, collect samples, take photographs and interview any witnesses who saw the fire. If they suspect that someone started the fire intentionally, they look for fingerprints and signs of an accelerant, or a substance that causes fire to spread rapidly. They give the results of their tests and analyzes to other law enforcement officials to use in court cases and criminal justice proceedings.

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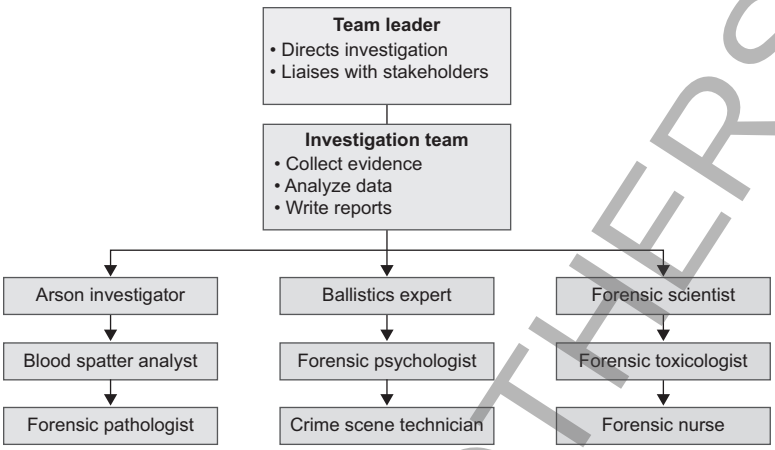

Fig. 3.2: Organizational structure of a forensic investigation team.

- **Ballistics expert:** A ballistics expert analyzes evidence from firearms used at the scene of a crime. They perform scientific analyses on the weapon and all elements related to it, such as bullet casings, residue and fingerprints on the gun. The information they find can help them determine if someone used the gun at the scene of the crime and, sometimes, who fired it. This can assist police in identifying potential suspects and proving their cases in court.
- **Blood spatter analyst:** Blood spatter analysts visit crime scenes to photograph and examine patterns of blood evidence left at the scene. They may also take some evidence with them to the laboratory for analysis. By evaluating blood evidence, blood spatter analysts may determine how the crime occurred, the type of weapon used and who committed the Act. The job requires an in-depth understanding of geometric principles to figure out the positioning of people and objects involved and how it relates to the crime.
- **Computer forensic scientist:** Computer forensic scientists evaluate, monitor and update law enforcement computer systems to ensure their security. They use ethical hacking techniques in which they stage hacking scenarios to test a system's integrity and confirm that only authorized users can access it. They also take steps to protect police records and digital evidence from crime scenes and police laboratories.
- **Crime scene technician:** Crime scene technicians spend many of their working hours on crime scenes gathering evidence they

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can take back to the laboratory for evaluation. They often respond before other officers to evaluate the crime scene, and they may work long hours at any time of the day or night. They give the evidence they collect to forensic scientists for evaluation and inform law enforcement officials of the findings.

- **Forensic psychologist:** Forensic psychologists conduct psychological examinations on defendants and witnesses in criminal cases to determine their fitness to stand trial. They can also Act as expert witnesses in jury trials to provide facts and opinions based on their psychological knowledge. Sometimes, forensic psychologists help develop treatment plans and other types of intervention for inmates and make recommendations to parole boards based on their understanding of an inmate's progress toward rehabilitation.
- **Forensic scientist:** Forensic scientists spend most of their time in the lab analyzing evidence collected by crime scene technicians. They use their extensive knowledge of scientific processes and legal proceedings to discover the facts of the case and determine their relevance to law enforcement. Forensic scientists often have many areas of expertise, including:
  - Biology
  - Chemistry
  - Ballistics
  - Microscopy
  - Trace evidence
  - Toxicology
  - Fingerprinting

  They may serve as expert witnesses in criminal trials to explain their procedures for evaluating evidence and how the evidence affects the case.
- **Forensic toxicologist:** Forensic toxicologists use precise chemistry to test human blood and other types of tissue in order to identify the presence of drugs, alcohol or dangerous substances like poison. Their results can help determine who had involvement in a crime and if a person holds responsibility in a criminal case, such as driving under the influence. Forensic toxicologists sometimes testify to their findings in court.
- **Forensic pathologist:** Forensic pathologists are also known as medical examiners. They typically work in law enforcement to figure out the cause of a deceased person's passing and determine if it may have resulted from a crime. You must become a physician to pursue a career as a forensic pathologist, as all states mandate active medical licensure for the job.

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- **Forensic nurse:** Forensic nurses provide care to victims after a crime takes place. They ask patients questions about their injuries, and they use their medical knowledge to provide a physical assessment that may assist law enforcement in pursuing a suspect. They often work with attorneys to help prove cases and testify to the injuries in court on behalf of the victim to provide facts to the jury.

COMPREHENSIVE HEALTH CARE OF VICTIMS

The health concerns of survivors/victims of sexual violence, and their right to health is an issue of importance. The Right to Health is not a fundamental right in India. However, the Supreme Court has interpreted the Right to Life as including the Right to Health. The Right to Health is enshrined in a number of international instruments ratified by India, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Discrimination against Women (CEDAW), the Convention of the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD).

The right to health care requires the state to ensure that appropriate physical and mental health services are available without discrimination and are accessible, acceptable and of good quality. This includes medical treatment for physical injuries, prophylaxis and testing for sexually transmitted infections, emergency contraception, and psychosocial support.

Recognizing the right of all persons to health, healthcare workers must obtain informed consent of the survivors/victims of sexual violence prior to conducting medical examinations or initiating medicolegal investigations. All medicolegal examinations and procedures must respect the privacy and dignity of the survivor. To realize the right to health care of survivors/victims, health professionals must be trained to respond appropriately to their needs, in a sensitive and non-discriminatory manner respectful of the privacy, dignity and autonomy of each survivor. Health workers cannot refuse treatment or discriminate on the basis of gender, sexual orientation, disability, caste, religion, tribe, language, marital status, occupation, political belief, or other status. Refusal of medical care to survivors/victims of sexual violence and acid attack amounts to an offence under Section 166B of the Indian Penal Code (IPC)/Section 200 of the Bharatiya Nyaya Sanhita (BNS), 2023 read with Section 357C/Section 397 of the new Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 of the Code of Criminal Procedure.

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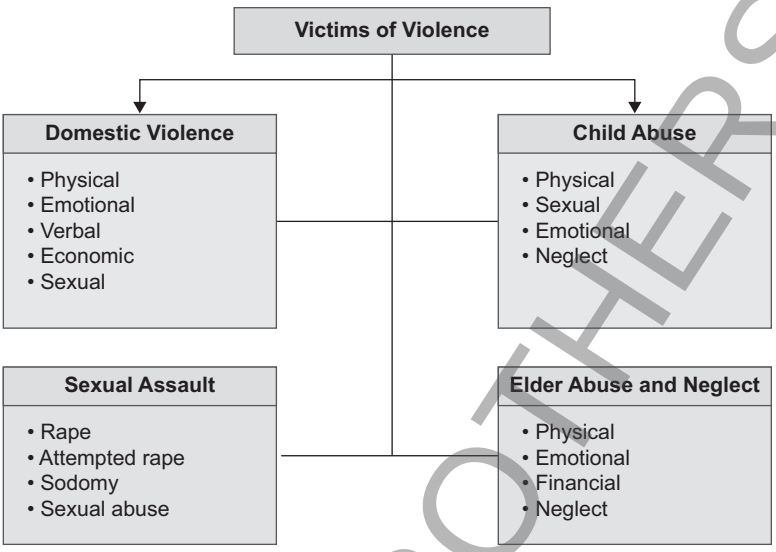

Forensic nurses manage victims of all age groups and genders

Fig. 3.3: Types of victims.

Type of Victims (Fig. 3.3)

Victims can have different etiologies. They may be victims of violence, abuse, neglect reporting in the hospital or offenders in correctional institutions or survivors of mass disasters. There may also be victims of self-harm. Abuse of children, abuse of elders, and abuse of women, are common in households and forensic nurses can play a good role in the management of such cases. Sexual assault and sexual abuse is a special group where sexual assault nurse examiners have played a leading role in the USA, UK, and Canada.

Consequences of abuse/violence seen among victims:

- **Physical health consequences:**
  - Severe abdominal pain
  - Burning micturition
  - Sexual dysfunction
  - Dyspareunia
  - Menstrual disorders
  - Urinary tract infections
  - Unwanted pregnancy
  - Miscarriage of an existing fetus
  - Exposure to sexually transmitted infections (including HIV/AIDS)

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- Pelvic inflammatory disease
- Infertility
- Unsafe abortion
- Mutilated genitalia
- Self-mutilation as a result of psychological trauma.

❖ **Psychological health consequences:**

- *Short-term psychological effects include*:
  - Fear and shock.
  - Physical and emotional pain.
  - Intense self-disgust, powerlessness.
  - Worthlessness.
  - Apathy.
  - Denial.
  - Numbing.
  - Withdrawal.
  - An inability to function normally in their daily lives.
- *Long-term psychological effects include:*
  - Depression and chronic anxiety.
  - Feelings of vulnerability.
  - Loss of control/loss of self-esteem.
  - Emotional distress.
  - Impaired sense of self.
  - Nightmares.
  - Self-blame.
  - Mistrust.
  - Avoidance and post-traumatic stress disorder.
  - Chronic mental disorders.
  - Committing suicide or endangering their lives

Comprehensive Forensic Nursing Care

Comprehensive forensic nursing can be defined as holistic nursing care covering physical health, mental health and social issues of a victim of violence and all those persons affected by violence on the victim and interested in the welfare of the patients. The term "victim" refers to a person whose fundamental rights have been violated and who has endured or been exposed to bodily, mental, emotional, or financial suffering. In the case that they sustain harm while aiding victims or preventing victimization, the immediate family members and dependents of such victims may also be referred to as victims. Numerous situations call for forensic nursing care. These cases might not be like personal animosity which is more frequent in emergency rooms, or like cases of car accidents. In addition, forensic nurses

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must provide care for victims of abuse and neglect of all ages and genders. Additionally frequent are cases of sexual assault and abuse, which forensic nurses must handle. These victims and survivors frequently have friends and relatives around them who, out of love, affection, and sympathy, are also psychologically damaged. Victims, survivors, and their families must all be treated delicately and sympathetically in such situations. Since forensic nurses have the knowledge, skills, and aptitude acquired during their education and training, they are well-suited to provide the holistic and complete treatment that victims, survivors, and their families require. This will cover both the victims' immediate post-violence care and long-term care. Some nations, such as the United States, United Kingdom, and Canada, have already built comprehensive forensic nursing care; other nations are working to do the same in response to their particular needs.

Health professionals play a dual role in responding to the survivors of sexual assault. The first is to provide the required medical treatment and psychological support. The second is to assist survivors in their medicolegal proceedings by collecting evidence and ensuring a good quality documentation. After making an assessment regarding the severity of sexual violence, the first responsibility of the doctor is to provide medical treatment and attend to the survivor's needs. While doing so it is pertinent to remember that the sites of treatment would also be examined for evidence collection later.

The following roles of the nurses are visualized for the comprehensive forensic nursing care of the victims, survivors and their families in India and other developing countries:

- **Visit the crime scene:** It will help forensic nursing in having first-hand information and initial assessment. Forensic nurses will know the history of occurrence of the crime and simultaneously they can observe the crime scene. This will help in the better assessment of the crime scene and victims and thus can provide better comprehensive forensic nursing care to the victims and survivors.
- **Assessment of the victims:** Forensic nurses can first assess the victims of violence. Medicolegal and medical histories are taken and care can be provided for both components.
- **Support for the victims:** Following the initial evaluation, first aid can be administered immediately at the scene of the crime before the victims are directed to the proper facility, buying crucial time for the injured or disabled persons to be saved. A thorough approach to forensic nursing care will also greatly benefit from

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psychological assistance during these priceless periods. Taking care of the current issue includes providing medical attention for the wounds, counseling, and social assistance.

- **Care of the current problem:** It involves taking care of the injuries, psychological support and social support.
- **Physical care of the injuries:** Physical care of the injuries is possible at the crime scene as well as in the emergency departments of the hospitals. Forensic nurses will take care that while taking care of the injuries the evidence is not weakened or destroyed during this process. In one of the studies in the USA, involving the age-group of 1–44 years, injuries including those due to violence are one of the major causes of disability and mortality. One-third of the emergency patients were due to injuries and 90% of these were seen by a nurse. This data tells the importance of forensic nursing in emergency departments. Preventing the complications of the crime is also part of comprehensive forensic nursing care, e.g., guiding the victims in the prevention of unwanted pregnancies, prevention and treatment of sexually transmitted diseases after sexual assaults and protecting the victims from further exposure to the assailants.
- **Psychological care:** Most of the victims and survivors often get psychologically disturbed and forensic nurses can provide them with good psychological support during and after the crisis hours. Usually, forensic nurses work in a team evaluating the violent offenders found not guilty because of mental illness and too dangerous patients and with forensic education nurses feel better to handle such patients and will be able to provide better care to such persons. It should be a routine to screen and assess the survivors for any help needed as anxiety, depression, and post-traumatic stress disorders are common after violence and become more pronounced after repeated incidences especially when a sufferer is not in a position to stop such occurrences. It should also be understood that often physical symptoms have their psychological origin. Providing aftercare kits to the victims goes a long way in the direction of comprehensive care as these kits will be useful to the victims because sometimes even clothing and personal belongings are needed to be taken as evidence and the victim requires these things urgently and in such situations kits containing clothing and other daily need items will be very useful to the victims.
- **Social care:** Persons do not have to go through all the processes alone after victimization and forensic nurses can provide support

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and comfort in these situations and can act as a liaison between different agencies to help the victims and their families to complete all the formalities after the criminal incidences. Forensic nurses can also help the victims to communicate with their friends and families in these hours of crisis. There may be financial implications when a person is traumatized. Finances are needed for the treatment and to deal with the morbidity due to violence. Survivors need finances to cope with the after-effects of violence and often offenders are the providers of the needs till economic aid is available to the victims, they will not be able to survive and fight the cases against the offenders. They can guide the victims to NGOs and other resources in such situations. Some stigmas are associated with certain crimes and there is a need to reaffirm to the victims that it is not their fault and it is entirely the fault of the offenders and they should not be ashamed of the happening.

- **Care of the associated morbidities:** Victims of violence may have preexisting diseases. Treatment of these diseases may get interrupted in these situations. Forensic nurses can get the history of these diseases and can help in providing timely treatment for these diseases so that no emergency arises during these situations.
- **Evidence collection:** Clinical forensic nurse provides care to living persons and can help in the evidence collection which may be physical or non-physical. Clinical forensic nurses will augment the level of care in such cases. They can collect biological evidence which can be of immense help in the investigation of the cases.
- **Evidence preservation and dispatch of evidence:** Evidence collected may become weak if it is not properly preserved. Evidence can be preserved depending upon the type of evidence. They can be of vital help in packing, labeling and dispatching this evidence to the concerned officials. Keeping the chain of evidence intact is an important issue and utmost care should be given to maintain it.
- **Documentation:** Documentation is a very important step and forensic nurses are taught to document what they observe, collect and intervene in a particular situation. Photo documentation is also an important aspect and forensic nurses may utilize this avenue too. Documenting all the processes will be of intense importance in providing comprehensive forensic nursing care to the victims. Presenting the evidence from the right perspective in the courts. Forensic nurses will be considered expert witnesses and they can give evidence in court for the work done by them. This will help the victims in getting justice and this will improve the lives of the people through crime reduction.

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- **Care of the survivors:** Types of care: Comprehensive care can be provided in different settings. Compassionate care is the need of the hours in most of the situations being faced by forensic nurses.
- **Hospital care:** There are specialists in forensic nursing who can provide comprehensive care in hospital settings. These are known as forensic nurse hospitalists. Usually, they work in the emergency unit of the hospital and usually work in collaboration with the medical officers or medical examiners.
- **Community settings care:** When forensic nursing service is provided in community settings, special care should be taken of the environment and how the work is going to affect the environment should also be taken care of. In hospitals, usually mechanisms are there to cause the least environmental pollution. Even when the comments are made in public these should be evidence-based and never exaggerated. The sensitivities of the communities should also be kept in mind.
- **Care of victims and survivors:** Victims of violence need a different type of care. Victims and survivors need an evaluation of what needs to be done and then a plan to be prepared for the management of the cases.
- **Short-term and long-term effects of the violence:** When a person is involved in violence it has both acute and chronic effects on the victims. The forensic nurse needs to provide care both in the hospital and after the patient is discharged till the survivor is in the need of help or support.
- **Care of family members and friends:** The forensic nurse can be an important team member when liaison work is to be done between law enforcement agencies, non-government organizations, patient, and their relatives. Family members are anxious and afraid and forensic nurses can calm them down and provide the required support due to their good communication skills. They can also provide the family members with psychological counseling if required. Sometimes, friends are accompanying the victims and they also feel traumatized when their friends become victims. They also need care at that time and forensic nurses can provide them with the required assistance too. For comprehensive care, forensic nurses should know to reach and work in unison with various government and non-government organizations.
- **Prevention of violence and crimes:** Forensic nurses can play five crucial roles in the prevention of violence. This is an area which has not been given importance in forensic nursing. Prevention of interpersonal violence will save a lot of money for governments and communities. Prevention can be done at all levels from the

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primary level to the tertiary level. A beautiful example is given in cases of drowning where rescuers rescue drowning people and upstream there was a bridge with holes in it and no warning signs on the bridge which is why the people were falling into the river. Doing some prevention work there could have saved many lives. Similarly in other situations, this can be done and even can be done by forensic nurses as little preventive work is being done in the criminal justice system.

- **Advocacy of the survivors:** Forensic nurses in addition to other roles can also be good advocates of the victims and survivors. Forensic nurses usually are involved in the examination of cases of asylum seekers in the USA who are in fear of being prosecuted in their countries. Forensic nurses can be good advocates for such victims similarly in other situations they can help advocate the cause of the victims of crime.
- **Epidemiology and research:** Research is required to make our approach evidence-based and this evidence needs to be developed for comprehensive forensic nursing care for the victims of crime, survivors of the crime and their families. We need to also know the epidemiology of various crimes to understand the prevalence of crime in a particular region of our country and the necessary support to be made available and funds to be allocated for this purpose. National Crime Record Bureau is a good source of the epidemiology of the various crimes reported in India.
- **Other issues:** Advocacy of the victims and respecting the rights of the victims and offenders are other issues which can be taken care of by forensic nurses. Forensic nurses should know and understand that victims as well as offenders have certain rights and they must know and respect these rights. By respecting the rights better nursing care will be provided to the victims and survivors and this is a part of comprehensive forensic nursing care. While giving care to the victims, forensic nurses must respect the autonomy of the patient. They should never breach the confidentiality of the patient. They must take the informed consent of the patient and if the consent is withdrawn even during the examination and collection of the evidence that also must be respected. According to the human rights office of the United Nations, victims must have access to justice and fair treatment. Such victims should be dealt with compassion as well as respect and should be informed of their rights to get legal aid and justice and required assistance should be provided for the same. Forensic nurses can help provide this required information and resources

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for the same to the victims reducing their inconvenience and helping them to avoid delays. They can also help in the process of restitution.

Physical Aspects of Comprehensive Care

Physical health issues can be painful reminders for crime victims. Victims may be seriously or permanently injured following a crime, and these injuries may prevent them from going to work or performing other day-to-day activities.

Victims may suffer from mental health issues resulting from their victimization. Specifically, victims of a violent crime, such as assault and robbery, have reported feelings of distress, problems with work or school, and problems with family members and friends that include arguments and an inability to trust them.

After the crime, victims may suffer a range of physical effects including insomnia, appetite disturbance, lethargy, headaches, muscle tension, nausea, and decreased libido. It is common for these reactions to persist for some time after the crime has occurred.



Nursing Care

- Recognizing signs and symptoms that indicate abuse or neglect.
- Supportive communication with persons suspected to be victims of violence.
- Assessing and addressing the safety of the victim.
- Interacting responsibly with caregivers in suspected cases of maltreatment.
- Providing immediate medical and psychosocial support for children exposed to physical, sexual and emotional violence and neglect.
- Collecting medical history, conducting physical exams and appropriate documentation of findings.

Psychosocial Aspects of Comprehensive Care

The following psychosocial aspects should be considered while supporting the victim. The forensic nurse should:

- Establish positive rapport with the victim.
- Allow the victim to discuss his or her account of the trauma.
- Listen and document any changes in the tone of voice.
- Observe and document nonverbal behaviors.
- Encourage the victim to discuss emotions and feelings related to trauma.
- Avoid inserting own words or feelings into the victim's experience.
- Educate a patient on his or her rights.

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- Inform victim about available helpful resources like crisis management centers, therapy centers and support groups.
- Provide emotional support.
- Provide preventive treatment for STDs.
- Provide counseling or psychotherapy that can be helpful in dealing with the events of the assault itself as well as the anger, fear, depression, or anxiety that victim might feel afterwards.
- Provide psychodynamic therapy to promote a greater conscious awareness of the connection between traumatic memory, feelings and behavior.
- Provide cognitive behavior therapy for cognitive restructuring needed for identifying and correcting cognitive distortions associated with trauma.
- Provide stress reduction training.
- Provide anxiety management training.
- Provide group therapy that helps the group members to provide mutual support to each other who share and understand each others' issues. Group therapy helps reduce the feeling of loneliness in victims

Cultural and Spiritual Aspects of Comprehensive Care

Cultural and spiritual care is an important dimension of total health, and therefore recognition and resolution of the spiritual and cultural needs of victims is an essential responsibility of healthcare providers. In order to cope with the indirect effects of the cultural and spiritual impact of a crime and to prevent additional demoralization of the impacted victim community, it is crucial that healthcare providers coordinate efforts with local religious and social governmental institutions and NGOs and respect victim and his/her family's culture like his/her own.

The forensic nurse should arrange for providing spiritual therapy to the victim as it will help them to get the ability to balance their mind, body, and spirit that will augment complete recovery. There are several kinds of spiritual healing therapies like Yoga, Meditation, Assisted visualization, Reiki, and Acoustic healing. Spiritual healing helps in solving several physical, emotional, and mental issues of a person.

Legal Aspects of Comprehensive Care Related to the Victim and His/Her Family

The Ministry of Health and Family Welfare recognizes the critical role to be played by the health professionals and health systems in caring for survivors/victims of sexual violence and collecting

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relevant evidence so that the culprit could be brought to justice. Thus, guidelines for health workers had been prepared, with the aim of providing an appropriate understanding of sexual violence and the needs and rights of survivors/victims of sexual violence, and to highlight the medical and forensic responsibilities of health professionals. It is also an important milestone in strengthening health system's response in addressing gender-based violence.

While preparing the protocol and guidelines, the Committee under the Secretary (Health and Family Welfare) deliberated on the issues several times and took cognizance of the lack of uniform protocols and gaps in existing provision of medico legal care to survivors/victims of sexual violence, recommendations of the JVC, the Criminal Law (Amendment) Act, 2013 (also commonly referred to as the Nirbhaya Act) and Protection of Children from Sexual Offences (POCSO) 2012. While doing so, international standards especially the WHO. Guidelines on medico legal care (2003) and Clinical and Policy Guidelines for responding to Intimate Partner Violence (IPV) and sexual assault (2013) were referred to. The committee has drawn from the available evidence from health sector interventions, legal and other expert opinions and voices of survivors/victims.

The protocol and guidelines recognize the role of health sector in strengthening legal frameworks, developing comprehensive and multisectoral national strategies for preventing and eliminating all forms of sexual violence. Through these, the Ministry of Health and Family Welfare proposes to provide clear directives to all health facilities to ensure that all survivors of all forms of sexual violence, rape and incest, including people that face marginalization based on disability, sexual orientation, caste, religion, class, have immediate access to healthcare services that includes immediate and follow-up treatment, post-rape care including emergency contraception, post-exposure prophylaxis for HIV prevention and access to safe abortion services, police protection, emergency shelter, documentation of cases, forensic services and referrals for legal aid and other services. It recognizes the need to create an enabling environment for survivors/victims where they can speak out about abuse without fear of being blamed, where they can receive empathetic support in their struggle for justice and rebuild their lives after the assault.

The Ministry of Health and Family Welfare feels that sensitive handling can reduce self-blame and enhance healing for survivors. It also recognizes the critical role of health professionals in their interface with the police, CWCs and judiciary. Such inter-sectoral collaboration is essential to provide services and deliver justice. The health system is committed to setting up services for survivors.

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(The Guidelines and Protocols: Medicolegal care for survivors/ victims by Ministry of Health and Family Welfare, Government of India, are given as Annexure 1)

As per the guidelines, forensic healthcare professionals are responsible for ensuring that the victim's rights are not violated, that include:

- Access to justice and fair treatment; restitution, compensation and rehabilitation.
- Assistance throughout the legal process.
- Right to a speedy trial.
- Right to protection of privacy and safety.
- Right to physical, medical and psychological examination.
- Right to be informed of proceedings and events in the criminal justice process, of legal rights and remedies and of available services.
- Right to be heard and participate in criminal justice proceedings.
- Right to be informed of his/her right to demand physical examination, by an independent and competent doctor of his/her own choice, if cannot afford the services of his/her own doctor, he/she shall be provided by the State.
- Right to immediate access to proper and adequate medical treatment.
- Free medical and healthcare services should be provided to the victims.
- The physical examination and/or psychological evaluation of the victim shall be contained in a medical report, duly signed by the attending physician, which shall include in detail his/her medical history and findings, and which shall be attached to the custodial investigation report. Such report shall be considered a public document.

Ensuring Delivery of Comprehensive Health Care

To ensure delivery of comprehensive health care to the victims of violence or abuse, it is important to establish a rapport with the survivor. The following guidelines are to help establish rapport:

- Never say or do anything to suggest disbelief regarding the incident.
- Do not pass judgmental remarks or comments that might appear unsympathetic.
- Appreciate the survivor's strength in coming to the hospital as it can serve to build a bond of trust.
- Convey important messages such as: the survivor is not responsible for precipitating the Act of rape by any of her actions or inactions.

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- Explain to the survivor that this is a crime/violence and not an Act of lust or for sexual pleasure.
- Emphasize that this is not a loss of honor, modesty or chastity but a violation of his/her rights and it is the perpetrator who should be ashamed.
- Take help of a counselor, if required.

Admission, Discharge and Referral/Death of Victim of Violence

To guide the procedure of admission, discharge and referral/death of any medicolegal case the Government of India has given the following guidelines:

Medicolegal cases (MLC) are an integral part of medical practice that is frequently encountered by Medical Officers. Proper handling and accurate documentation of these cases is of prime importance to avoid legal complications and to ensure that the Next of Kin (NOK) receives the entitled benefits. All medicolegal issues should be handled in accordance with the law of the land. Since law and order is a state subject, there are differences in the legal procedures being followed by different states. The members of forensic team should acquaint themselves with medicolegal procedures that are in vogue in the state in which they are serving.

An MLC is defined as "any case of injury or ailment where the attending doctor after history taking and clinical examination considers that investigations by law enforcement agencies are warranted to ascertain circumstances and fix responsibility regarding the said injury or ailment according to the law". Examples of MLCs are as follows:

- Assault and battery, including domestic violence and child abuse
- Accidents like Road Traffic Accidents (RTA), industrial accidents, etc.
- Cases of trauma with suspicion of foul play
- Electrical injuries
- Poisoning, alcohol intoxication
- Undiagnosed coma
- Chemical injuries
- Burns and scalds
- Sexual offences
- Criminal abortions
- Attempted suicide
- Cases of asphyxia as a result of hanging, strangulation, drowning, suffocation, etc.
- Custodial deaths

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- Death in the operation theater
- Unnatural deaths
- Death due to snakebite or animal bite
- Firearm injuries
- Drug overdose
- Drug abuse
- Dead brought to the Accident and Emergency Dept/MI Room (Found dead) and deaths occurring within 24 hours of hospitalization without establishment of a diagnosis.

General Guidelines for Dealing with Medicolegal Cases (MLCs)

- In emergencies, resuscitation and stabilization of the patient will be carried out first and medicolegal formalities may be completed subsequently. The consent for treatment is implied in all emergencies.
- Emergency medical care will be administered to all cases brought to any healthcare facility irrespective of their entitlement. In non-entitled cases, after the initial stabilization, the patient may be transferred to the nearest Government hospital, and if necessary by service ambulance.
- Cases of trauma will be labeled as MLCs, if there is a suspicion of foul play, even if the incident is not of recent origin. All cases of injury to service personnel should be reported on IAFY 2006 (Injury Report) with the appropriate classification viz., trivial, moderately severe or severe.
- All medical emergency rooms and hospitals will maintain an MLC register and the MLC will be initiated and documented in the register. Personal particulars, identification marks, finger-prints of the individual will be noted. Particulars of the person accompanying the patient will also be noted.
- Medicolegal documents should be prepared in duplicate, with utmost care giving all necessary details, preferably written with a ball-point pen and avoiding overwriting. If any overwriting or correction is made, it should be authenticated with the full signature and stamp of the Medical officer. Abbreviations should be avoided.
- The medical officer should be immediately informed as and when an MLC is registered or admitted. The particulars of the patient and a short summary of the case will be mentioned in the report book.
- Next of kin will be informed if the address is available.
- The police should be informed. Under Section 39 of Criminal Procedure Code, the attending medical officer is legally bound

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to inform the police about the arrival of a MLC. Any failure to report the occurrence of a MLC may invite prosecution under IPC Section 176 (Omission to give notice or information to a public servant by a person legally bound to give it) corresponds to Section 211 of the BNS.

IPC Section 202 (Intentional omission to give information of an offense by a person bound to inform) corresponds to Section 239 of the BNS. Simultaneously, the information should be given to the police station and to the unit concerned (by telephone). The verbal communication should invariably be followed by communication in writing subsequently.

- In case of discharge/transfer/death of such a case in the hospital, the police should be informed.
- Medicolegal documents should be considered as confidential records and should be stored under safe custody to avoid tampering. Medical records must be thorough, complete and should document each and every significant event in the course of care of the patient. All the documents including case sheets, X-rays and investigation reports will be preserved meticulously in the medical record section indefinitely and handed over to the concerned authorities (Police Investigating Officer/Court/Court of Inquiry) as and when required.
- Prompt attention, correct triage and safe transfer of a patient from one facility to another as required should be carried out in all cases and not delayed because of the medicolegal nature of the case.
- Opinion on severity of injuries should be given after the X-ray reports are received in cases of injury to bones/joints.
- Samples and specimens collected for medicolegal purposes will be properly sealed, labeled and handed over to the investigating officer detailed by the police. Commandant/CO of the hospital will ensure that the documents are kept in the custody of an appropriate officer till the case is finally decided or cleared by the police and judicial authorities.
- The service pathologist carries out clinical autopsy.

Precautions to be taken in MLCs

- The complete available particulars of the patient should be noted down along with two identification marks. Particulars of the person accompanying the patient will also be noted down.
- One should not rely on memory while writing reports or during recording of evidence in a court of law.

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- Complicated cases should be discussed with seniors and colleagues.
- No cause of death will be mentioned in the death certificate. The statement that "Exact cause is to be ascertained by postmortem examination" is to be endorsed.
- In MLCs, the body will not be handed over to the relatives. The civil police will be informed and the body handed over to them. The police will, after the medicolegal formalities, hand over the body to the relatives.

Guidelines for the Preservation of Medicolegal Evidence

- Medicolegal evidence should be preserved and subsequently sent or handed over to the investigating authorities for forensic examination and production as evidence in a court of law. All evidences will be identified, sealed and labeled properly. They will be kept in safe custody and handed over to the investigating officer of the case. Once collected, loss/destruction of evidence is a punishable offence. Failure to collect, destruction or loss of such an exhibit is punishable under Sec 201 of I.P.C.
- The evidence required to be preserved is related to the nature of a case. In injury cases, the following articles should be preserved in sealed envelopes:
  - Clothing worn by the patient showing evidence of injury such as tears, bullet holes, cuts, blood stains, etc.
  - In case of multiple tears, cuts or holes, etc., each piece of evidence will be encircled and numbered with matching description in the MLC report and case sheet.
  - Bullets recovered from a body should be marked by etching an initial or a mark on the bottom before preservation.
  - All evidence collected should be mentioned in medicolegal documents to establish the chain of custody in a court of law subsequently.
- In cases of suspected poisoning the following articles will be preserved and ensured that they are forwarded for forensic examination:
  - Gastric lavage/gastric contents/vomitus and soiled clothing
  - Blood, urine and any other relevant body fluid depending on the poison ingested.
- In cases of burns and carbon monoxide poisoning the following articles should be preserved in sealed envelopes:
  - Articles soiled with inflammable substances like burnt pieces of clothing, scalp hair, etc.
  - Blood (and not serum) for carbon monoxide levels.

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