



D50 Pictures From the Dark Side — Inaccurate and/or Biased Sexual Assault Examination Reports From a Defense Expert's Prospective

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The goals of this presentation are to: (1) better understand that sexual assault examination reports need to be carefully evaluated before and at trial; and, (2) to demonstrate that conclusions drawn by the sexual assault examiner may be inaccurate and/or biased and the examinations themselves incomplete with little or poor documentation to substantiate the sexual assault examiner's conclusions.

This presentation will impact the forensic science community by presenting the sexual abuse examination as an important tool in law enforcement that needs to be carefully guided to be a fair, honest asset to both defense and prosecutors in their quest for justice.

Synopsis: Actual examples of SART examination photos and statements by sexual assault examiners will be shown. They will include those that were used in trials that have led to convictions in which the information given to the jury was not accurate. The interpretation of the photos themselves could be inaccurate or the information from the photographs was interpreted in such a manner as to suggest sexual assault had occurred. This could be whether this was an accurate interpretation or not and even if accurate ignored the fact that there were other possible causes that would explain the findings.

The interpretation of the sexual assault examination reports also leads police to make arrests and prosecutors to charge in situations that do not warrant these actions.

The issue as to the genesis of the inaccurate examination reports will be discussed. Is it just from the lack of experience and knowledge of the examiner or does advocacy become a major factor? Cases on point from inexperienced and very experienced examiners will be shown and discussed.

Problems in selecting candidates to become sexual assault examiners will be discussed as will the lack of consistency in the training and continued qualification of these examiners. The lack of consistency in standards for peer or case review will be discussed.

From experienced centers we see excellent reports which include quality photographs and a reporting of the findings in a professional manner with accurate dispassionate discussions of the findings and their possible interpretations. However, with the rapid expansion of the sexual assault examination program there is now a major difference in the quality of the reports from various centers. For example in the last six cases reviewed from one northern state no photographs were taken.

The manner in which sexual abuse examiner groups has escalated in the last twenty years with their own ability to qualify their examiners has led to a marked differential in skill sets of the examiners in various parts of the country and in the same states. These groups are either privately owned, owned by emergency rooms or rape crisis centers and contract with local hospitals or local law enforcement agencies to deliver this service. This does lead to the consideration of a possible conflict of interest.

With the need to fill their staffs and meet their contracts, these sexual assault examiner groups at times must use less than experienced examiners with the expected results. This leads to situations in which a less experienced sexual abuse examiner's report is presented in court and is challenged leading to more senior member of the group rebutting the challenge to the report in a protective but less than accurate supplemental report. Examples of this will be shown.

Sexual Assault Examiner Qualifications, Conflict of Interest, Trial Preparation