



ISSN: 0976-3031

Available Online at <http://www.recentscientific.com>

CODEN: IJRSFP (USA)

International Journal of Recent Scientific Research  
Vol. 10, Issue, 06(A), pp. 32709-32715, Jun, 2019

**International Journal of  
Recent Scientific  
Research**

DOI: 10.24327/IJRSR

## Research Article

### SCOPE OF FORENSIC NURSING

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DOI: <http://dx.doi.org/10.24327/ijrsr.2019.1006.3528>

#### ARTICLE INFO

##### Article History:

Received 12<sup>th</sup> March, 2019

Received in revised form 23<sup>rd</sup>

April, 2019

Accepted 7<sup>th</sup> May, 2019

Published online 28<sup>th</sup> Jun, 2019

##### Key Words:

abuse, violence, criminal activity, liability, and accidents

#### ABSTRACT

Forensic nursing is defined as the application of nursing process to public or legal proceedings, and applying of forensic health care in the scientific investigation of trauma and/or death related to abuse, violence, criminal activity, liability, and accidents.

Before there was a specialty recognized as forensic nursing, the term used was clinical forensic medicine. This term describes the use of clinical practices to support judicial proceedings to protect a victim, usually after death has occurred. It was not until the late 20th century that medical professionals wanted more collaboration between the medical and legal systems. In the United States this problem began to be addressed. A strong advocate for the forensic nursing specialty in United States was Virginia Lynch, pushed to have the specialty recognized and helped to form programs in U.S. for proper education. In the 1980s articles were being written about how the important evidence needed to build a legal case was not being preserved during the treatment of a victim. From there began an explanation of the nurse's role in not just forensic medicine but also the criminal justice system when dealing with a victim of violence.

Most nurses practice with the holistic framework of body, mind and spirit. With forensic nursing established, the role of a nurse was altered to also include the law. Their goal is to work with a possible victim and make sure the proper medical but also forensic tasks are accomplished. The forensic evidence is then passed on to the criminal justice system for proper investigation. This specialty has started to be recognized worldwide and is helping to promote an international focus on violence. The nurses are becoming vital resources for the healthy relationship needed between the health and justice systems

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#### INTRODUCTION

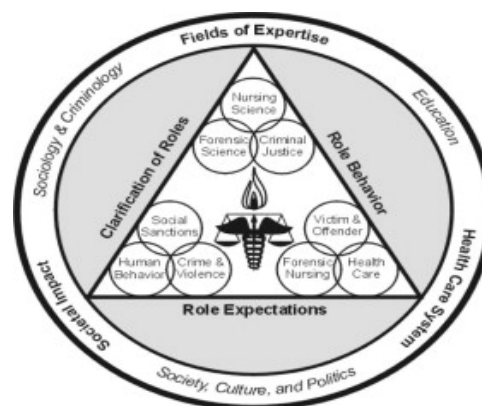
The forensic nursing practice model integrates sociology (sociopolitical impact), criminology (crime, violence, criminal justice, social sanctions and human rights), clinical and criminal investigation (forensic science) and education (nursing and medico-legal knowledge, education of staff and forensic clients/patient). The cyclic nature of the model speaks to continuance, perception and balance. The scale of justice is served when truth is identified, verified and demonstrated.

**Explanation:** The dynamics of the interlocking circle are receiving domains from all directions.

- The outer circle – framing and encompassing these components, is symbolic of the environment ( society, education and other social system)
- Center ( internal triangle) – it reflects the legal services, forensic medical, physical, psychosocial and nursing sciences which is composed of scale of justice, bundle of

public services, the symbol of medicine (caduceus) and the eternal flame of nursing.

- The flame illustrate enlightenment of humanity and challenge in nursing continually evolve and expand into new roles.



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## The Fundamentals of Forensic Nursing

As with any nursing specialty, forensic nursing requires learning and developing new fundamental skills. The fundamental skills associated with forensic nursing include:

- Interviewing skills
- Evidence collection
- Documentation
- Knowledge of criminal, procedural, and constitutional law
- Interdisciplinary collaboration

Forensic nurses may also be required to testify in court as an expert witness when applicable.

### Evidence Preservation

Most often, accident and emergency department is the first place where the forensic victims present or report, a handful of evidence can be collected with the help of trained forensic staff. Collection of forensic evidence is considered vital for the provision of medical treatment. Although life-saving and emergency procedures are more important than evidence preservation; however, recognition of severity of the injury or incident and the extent of damaged quality of life are of prime importance in order to bring justice for victims or injured.

Evidence preservation is a crucial step of forensic nursing in order to support successful legal proceedings. It is necessary to keep all evidence intact until proper collection and documentation is completed. While collecting evidence, use of force, assaulter's identity and his/her relations with the victim are noted for essential law enforcement. Similarly, all statements made by the victim are documented regardless of his/her medical care. Untrained staff, mishandled course of treatment, and passing over the chain of custody may lead to limited law enforcement and justice provision.

**Incidence:** The first step in evidence preservation is to identify the nature, origin and time of the incident/accident. Nature of the happening may be physical, sexual or emotional. Origin of the incident may be neglect, accident, torture, violence, drug induce or poisoning. Time of the happening or incident is very important as the evidence may deteriorate with the passing time. For example, saliva for DNA sample and sexual assault examination should be performed within 48 hours and 96 hours, respectively.

**Clothes:** Although the clothes of the predator and the victim are not the part of medical forensic exam; however, these are considered as critical forensic evidence. As the patient approaches Emergency department, all the items of clothes must be located and noted; especially the cuts and tears to the clothes should be documented and packed in the bags accordingly. The clothes (especially the underwear) of sexually assaulted patient are retrieved with law enforcement for the purpose of medico-legal proceedings.



**Skin:** Remember, most often skin of the patient carries vital evidence in the form of cuts, violence or bite marks and contamination. Therefore, it should be unwashed until the forensic collection and documentation is completed. The forensic nurse should wear proper medical and protective equipment to avoid contamination while collecting the swab samples from the patient's body. He or she should wear gloves and masks so that the samples should not be contaminated while coughing/sneezing or the germs or toxic materials should not be in-contact with the collector.

**Stomach Contents:** In case of food, beverage or drug poisoning, stomach contents or vomitus are preserved for the biochemical examination. It will reveal the type of chemical or poison given to or taken by the patient for suicidal purpose.

**Blood and Urine Samples:** Blood and urine samples are also taken and preserved in the specific bottles to send to the concerned forensic laboratory. All the samples are sealed, stamped and signed by the forensic team before sending them to the forensic laboratory.

### Roles of the Forensic Nurse

It is difficult to limit the role forensic nurses will fill to a few given situations from the Indian perspective; however, some of the potential roles are identified below.

**Forensic Pathology:** Forensic nurse examiners serving as forensic pathologists during the dissection while collecting biological and trace evidence. The forensic nurse can assume an important responsibility as the first person to receive the bodies of the dead, the police documents, maintain mortuary records as well as other necessary entries in various registers, and manage legal formalities related to the decedent's presence in the mortuary. As a mortuary administrator, other responsibilities include noting the post-mortem staining and rigor mortis prior to artificial cooling as well as maintaining the appropriate temperature of refrigerated storage units. Upon the arrival of the forensic pathologist, intake notes will be presented in an incisive report that includes the condition of the body, prior hospital admissions or pre-hospital care, and police description of events as well as the security of any personal property accompanying the body. The forensic nurse examiner

can answer the various queries of grief stricken families; thus reducing an excessive and unnecessary workload on the pathologist in addressing these issues, allowing them to concentrate on postmortem analyses in a more precise manner.

**Forensic Traumatology:** As forensic specialists to victims of trauma, the forensic nurse examiner provides documentation of injury with photography, collection of biological fluids and preservation of clothing that contains evidence of assault, etc. The forensic nurse can be of particular help in cases of intimate or sexual trauma if the victim is female. A female nurse examiner can more readily establish rapport with these victims, allowing them to express the true history in a frank manner.

**Forensic Toxicology:** Forensic nurses should be included as one member of the trauma team when treating cases of poisoning. It is not uncommon for forensically significant evidence in poisoning cases to be discarded, such as gastric lavage, vomitus, urine samples, fecal matter or clothes soiled by any of the above. Forensic nurses are aware of the value of these specimens, preserving as appropriate and document the records in a meticulous manner for future presentation in court.

**Sexual Assault Cases:** It has long been recognized that physicians (male or female) are resistant to participate in sexual assault cases due to the extremes of emotional trauma associated with these victims and their reluctance to testify in court. The forensic nurse has an advantage in these cases due to their highly specialized training as sexual assault examiners. Forensic nurse examiners are specifically qualified in providing sexual assault evaluations and victim management. They are also qualified as expert witnesses in a court of law. From their initial education in forensic science, the sexual assault nurse examiner accepts court testimony as their duty and professional responsibility. Public prosecutors support by citing the forensic nurse as a formidable witness in the courtroom. Hopefully, the forensic nurse examiner will become the preferred clinician of the future in the medico-legal management of sexual assault cases in India's health and justice systems. They are highly qualified in forensic technique, in improved methods of collection and preservation of specimens and in the photo- documentation of injury, which will ultimately provide for greater a greater number of successful offender prosecutions.

#### **Members of the Legal Team i.e. Assistants to Attorneys**

Considering that the majority of cases prosecuted involve crimes against persons (i.e., trauma) forensic nurses who have qualified as Legal Nurse Consultants(LNC) can contribute significantly to the investigation of crime. They can review and analyze medical records and guide the advocates through a complicating medical terminology and surgical procedures not taught in schools of law. The LNC helps define and develop appropriate questions for cross-examination and help to identify the unfiled or neglected as documented in the medical records. They also maintain knowledge of latest research in the field pertaining to healthcare and the law, thereby providing valuable information related to the case.

**As a Member of the Investigative Team for Insurance Companies:** Due to Consumer Protection Act many cases are coming against the doctors who have taken indemnity insurance. They can advise the concerned insurance agencies

regarding various medical facts after reviewing the medical records. The forensic nurse investigator provides a highly skilled analysis of the individual who files false claims with insurance companies, particularly in fraudulent worker's compensation cases.

**As a Member of the Investigating Team at the Scene of Crime:** The FNE's initial responsibility is to help differentiate between natural deaths and crime related deaths and to limit the unnecessary post-mortem examination. The FNE, as a medical investigator, can assist the investigating officers in the collection of trace and biological evidence while explaining preliminary medical facts and artifacts at the scene of crime. The FNE's responsibility includes arranging for safe transportation of the body to mortuary, security of medical evidence, photo-documentation of the body at the scene, gathering information regarding the circumstances of death and making notification of death to the surviving relatives.

**Social Forensic Nursing:** Battered women, abused children and the neglected elders will be more comfortable in explaining the circumstances of injury to female forensic nurses as compared to police personnel. Early detection of such cases will prevent more serious crimes.

**Criminal Abortion:** Forensic nurses may become the first person to recognize such crimes. Victims of self-inflicted or illegal abortions as well as society in general will benefit by a timely reporting of such cases. Lives of many victims can be saved as the culprits will be identified and brought to book.

**Human Rights Violations:** With a duty to the advancement of humanity, forensic nurses promote human rights and augment the detection of their violations. The FNE employed by government or non-government organizations, can routinely visit jails, police stations and other places of detention, providing unannounced inspections of these agencies. Because sexual abuse is a common form of human rights violations, it may include both male and female victims. The female victim may be more forthcoming to female forensic nurse and male victims have been cited to feel less intimidated by female forensic nurse examiners. The FNE is well qualified in the detection and documentation of early or advanced symptoms of abuse where they exist involving detainees. Here, both male and female forensic nurses can participate together in such places and can provide significant results in the form of decreased human rights violations.

**Forensic Psychiatric Nursing:** The role of forensic nurses cannot be undermined in dealing with cases involving mental illness, particularly when such people become involved in criminal cases or when criminals are feigning mental illness. In such cases the forensic psychiatric nurse can provide an extensive forensic evaluation while observing for specific symptoms related to offender history. Forensic psychiatric nurses also provide court ordered evaluations of the suspect in custody pertaining to the stability of their mental status to stand trial.

#### **Other Roles of the Forensic Nurse**

There are many roles pertaining to forensic nursing. Within the specialty of forensic nursing there are many diverse opportunities that include:

- ✓ Correctional Nursing Specialist
- ✓ Forensic Clinical Nurse Specialist
- ✓ Forensic Nurse Investigator
- ✓ Legal Nurse Consultant
- ✓ Sexual Assault Nurse Examiner
- ✓ Forensic Gerontology Specialist
- ✓ Forensic Psychiatric Nurse
- ✓ Nurse Coroner/Death Investigator

### Documentation process



### Sexual Assault Exam Documentation

There are three distinct types of documentation necessary for the forensic examiner to complete when conducting a sexual assault examination.

1. Patient consent to do the exam and authorization to release the information to law enforcement.
2. Forensic examination documentation of what the forensic examiner did, saw, and collected.
3. Chain of custody documentation of the evidence collected.

### Consent and Authorization

Before beginning the sexual assault exam, the forensic examiner must obtain written informed consent from the patient to do the exam, collect evidence, and take pictures. If pictures will be used for training purposes, this should also be included in the consent. The Health Insurance Portability and Accountability Act (HIPPA) established standards to protect patient health information. It applies to any health care provider and to paper as well as electronic health records. Any "individually identifiable health information" is considered "protected health information" and is covered by HIPPA regulations (HIPPA, 45 C.F.R 164.512). While obtaining informed consent to share the details of the Sexual Assault Forensic Medical Examination with law enforcement and other professionals is an essential part of the examination, HIPPA also clearly addresses exceptions when covered entities are permitted to disclose protected health information without an individual's authorization or permission (HIPPA, 45 C.F.R

164.512). The circumstance where this is permitted with victims of sexual assault includes: Mandatory reporting of suspected abuse by health care providers and others. Disclosure is permitted to government authorities regarding victims of abuse, neglect, or domestic violence regulations (HIPPA, 45C.F.R 164.512 (a), (c)).

### Law enforcement purposes. Disclosure to law enforcement is permitted

1. As required by law (e.g. court orders, warrants, subpoenas) and administrative requests;
2. To identify or locate a suspect; and
3. In response to a law enforcements request for information about a victim or suspected victim of a crime regulations (HIPPA, 45 C.F.R 164.512(f)).

Mandated reporting as required by State or Tribal law.

### The Forensic Examination Documentation

It is important for the forensic examiner to maintain an objective and unbiased approach to the care of their patient and to documentation. They are not there to help "prove" or "disprove" a case. As medical providers the forensic examiner is responsible to accurately and completely document what they see, what they do, and the evidence they collect. It is important at the time of the examination to recognize that any case could end up in a court of law and that it is important to document all information that is relevant to the case or could be relevant. The examiner should never assume they will remember relevant information. If it is potentially important it needs to be carefully documented at the time of the exam.

It is also clearly not possible, nor appropriate, for any medical provider to document everything the patient reports during an extensive medical examination that may take two or three hours or more. Especially in a forensic medical exam, it is essential that they document everything that in their opinion is or may be relevant. Whenever possible the forensic examiner should avoid medical jargon, and instead use terminology that is more likely to be clearly understood by the law enforcement officer, prosecutor, defense attorney, and ultimately the jury. Other medical providers are not the primary audience. For instance, instead of documenting "erythema", the forensic examiner should document "redness" if this is seen on examination. Injuries should be also documented objectively and concisely, avoiding descriptions that are unclear and can be misinterpreted, such as "small bruise". Instead a bruise should be documented describing the size, shape, color and location. In addition to the written description, documentation of injuries should also include pictures and indications of the location of the injury on a body diagram.

A Sexual Assault Nurse Examiner exam includes a focused medical history including a detailed history of the assault; head-to-toe physical assessment for injuries, diagnosis and treatment or referral for treatment of injuries identified; forensic evidence collection; assessment of risk and offering prophylaxis for sexually transmitted infections; assessment of risk of pregnancy and offering emergency contraception (EC); crisis intervention, support, and providing information about options including law enforcement reporting decisions. An important role is documentation of the above for both medical

and forensic purposes. Documentation should include the following :

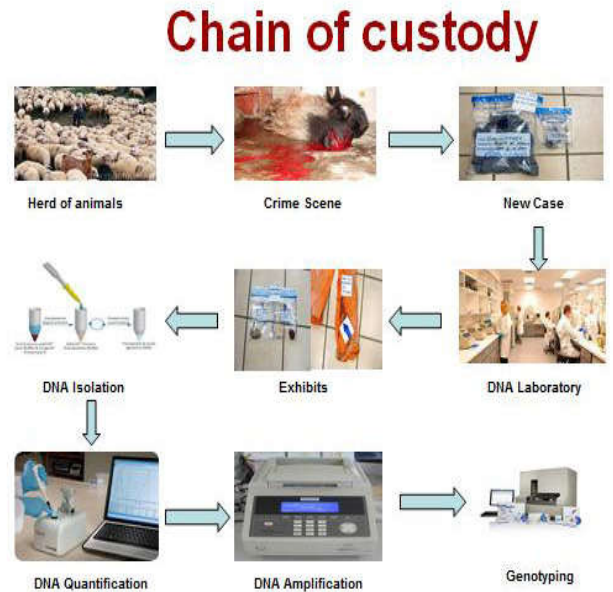
- ✓ Place and time of assault
- ✓ Nature of physical contacts
- ✓ Race and number of assailants
- ✓ Relationship to assailant(s)
- ✓ Weapons or restraints used
- ✓ Where penetration or attempted penetration of which orifice by a penis, object or fingers occurred
- ✓ Ejaculation - if known, and where it occurred
- ✓ Use of condom or lubricant and brands, if known
- ✓ Threats to victim by assailant(s) in quotes
- ✓ Statements of victim that help explain what made her afraid to resist
- ✓ Activities of the victim after the assault that may have resulted in the destruction of evidence (e.g. changing clothes, showering, brushing teeth or using mouth wash, eating or drinking, douching, or having a bowel movement)
- ✓ Consenting sex within past 72/96/120 hours
- ✓ Use of tampon
- ✓ Contraceptive use or current pregnancy
- ✓ Allergies
- ✓ Survivor's emotional response during assault
- ✓ Patient's appearance, cognitive state, demeanor and emotional response at time of exam
- ✓ Physical injuries
- ✓ Evidence collected and disposition

**Focused Medical Interview and Documentation**

An important decision for the forensic examiner is if the medical interview will be a complete medical, psychiatric, and sexual history, or if a more focused medical interview is sufficient or even more appropriate. It is important that the examiner is aware of the implications of this decision to the patient. This decision is most clear when considering the patients sexual history. While it clearly is irrelevant if a patient is sexually active, has had consenting sex with other people in the past, has had a past abortion, or has children and is not married, defense attorneys have tried to use the patients past sexual history to undermine their credibility when a case goes to trial. As a result of these tactics, every state has passed a rape shield law to prevent the patients unrelated, past sexual history from being discussed in the courtroom. However, if the forensic examiner asks about, and then documents the sexual history of the patient, they are not only informing the defense of this history, but also potentially making it an issue in the sexual assault case. It will still be the decision of a judge to determine if this type of evidence is admissible at trial. However, in a case with consent as the defense, the defense attorney will likely argue evidence that the victim is sexually active goes to show past consent, so should be considered in this case as well. Unfortunately, all too often, the argument is successful. The situation is similar with the patient's psychiatric and medical history. If relevant in the opinion of the examiner it should, of course, be documented clearly and concisely. For instance if the patient was assaulted by her physician or therapist, another patient of her therapist, or leaving a therapy session If, for instance, the examiner is concerned about the patients suicide potential the current behavior and statements should be evaluated and documented

independently, rather than documenting the patients past mental health history. It is the current suicide potential that is the concern and that is what should be documented. If the patient discloses she had an abortion, knee surgery, or was treated for depression two years ago, if not relevant there is no reason to document the past medical care as a part of the sexual assault exam. If documented, this too could allow the defense attorney a rationale to gain access to the patients past medical or psychiatric records to "fish" for something that could be used to discredit her at trial. Even if ultimately not allowed, just the threat of this kind of disclosure can understandably feel very invasive to the victim.

**Chain of Custody**



The purpose of the chain of custody information is to provide a signature record of every individual who has had possession of the evidence in order to ensure there has been no loss or alteration of evidence from the time of collection until it is analyzed by the laboratory or used in the courtroom. Without proper chain of custody it is possible evidence collected will not be admissible if the case goes to trial. It is essential that the forensic examiner who collects the evidence maintains direct control of that evidence from collection until transfer of custody. This includes while it is being dried, packaged, and sealed. They must also carefully document when they place the evidence in secured storage, or transfer custody to another individual. This transfer of custody must include the full name, signature, and date and time of transfer and the full name and signature of the person custody is transferred to, or the location of the secured storage area. The same documentation must occur with each successive transfer of the evidence from the examiner to law enforcement, and laboratory personnel for analysis. It is not necessary, nor appropriate for the law enforcement officer to be in the room during evidence collection to maintain chain of custody. The patient, patient advocate, family members, or other support personnel should not be involved in the chain-of-custody.

### **Forensic Mental Health and Nursing**

Nursing, by definition, is the protection, promotion, and optimization of health and abilities, prevention of illness and injury, alleviation of suffering through the diagnosis and treatment of human response, and advocacy in the care of individuals, families, communities, and populations. Psychiatric mental health nursing is a specialty within nursing. Psychiatric mental health registered nurses (PMHN) work with individuals, families, groups, and communities, assessing their mental health needs. The PMHN develops a nursing diagnosis and plan of care, implements the nursing process, and evaluates it for effectiveness.

Forensic psychiatrists work most closely with registered nurses who have chosen psychiatric mental health nursing as a specialty area and with advanced practice psychiatric mental health nurses who have chosen forensics as a subspecialty. Forensic nursing is a recognized specialty in nursing. This specialty allows for application of nursing art and science to clinical legal situations. The nurse's level of education and practice experience greatly influences the role of the nurse on the health care team and the criminal justice team.

Forensic mental health nursing is the intersection of mental health and the legal system. Forensic psychiatric nurses work with offenders who have been deemed mentally disordered and need additional attention separate from the judicial/penitentiary system. Forensic psychiatric nurses work with mentally disordered offenders in secure psychiatric services where they assess the patient (victim or perpetrator) and gather evidence that may influence conviction, sentencing, recidivism, treatment, and prevention. Forensic psychiatric nurses use their training to aid in the rehabilitation of criminal offenders, assess the wellbeing of crime victims, and serve as expert consultants for criminal proceedings. They most commonly work for law enforcement agencies and at facilities such as prisons, mental hospitals, and juvenile detention centers.

Nurses often interface with patients who exhibit mental health issues in many practice settings: hospitals, clinics, physician and nurse practitioner offices, corrections settings, etc. The patient may present as a psychiatric emergency or may present for other healthcare problems, during which time the patient may exhibit long-standing mental disorders. Many of these patients may have forensic issues related to their care. They may have entered the clinical setting with a weapon, been injured during an altercation with law enforcement or directly with a victim, been a victim of a crime, or been involved in one of many other scenarios in which a person with mental disorders requires medical attention while also having legal problems. Frequently, the healthcare team must deal with the personality disorders common in offenders, concerns regarding violence and safety, and those with factitious disorders trying to feign mental illness to avoid jail or legal consequences.

### **Summary**

The forensic examiner should expect to be called to testify if the case goes to trial. The most important preparation for this testimony is complete and concise documentation. The forensic examiner will likely be asked to testify about what they did, what they saw, what evidence was collected, how it was handled, and how chain of custody was maintained. The documentation at the time of the examination will be the basis

of their testimony. Since the purpose of the medical interview is to guide the patient's exam and evidence collection, the forensic examiner should ask questions that will assist with identification of injury and potential evidence that can be collected. Clearly everything that is discussed during this time period cannot and should not be documented. It is, however, essential that the forensic examiner is consistent and unbiased when deciding what will and will not be asked and included in the evidentiary exam documentation. The decision must always be to document everything that in the opinion of the forensic examiner is or might be related to the assault in question. The decision to document cannot be based on what will help or hurt the case. The forensic examiner must always remain unbiased in collecting evidence and documenting the patient's history of the assault. Fortunately, it is not the examiner's job to determine if the patient is telling the truth or if the patient was or was not raped. It is the forensic examiner's job to document a complete history of the assault to guide the examination of her patient, to identify injuries, to collect evidence, and to provide medical treatment to her patient. All medical records are also, of course, important evidence if the case is charged and prosecuted. Areas that are controversial and where documentation decisions vary include the past medical history, past psychological history, and sexual history. However, it is the opinion of this author that the decision is clear when the decision is based on the recommendation to include only the information that is, or may be related to the current assault in question. If in the opinion of the forensic examiner other information volunteered is not related to the assault, to the medical-legal examination she will be conducting, or to the care she will provide her patient, it should not be documented on the sexual assault exam report.

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**How to cite this article:**

Jaivin Jaisingh.J and Sridhar K.M.K., 2019, Scope of Forensic Nursing. *Int J Recent Sci Res.* 10(06), pp. 32709-32715.  
DOI: <http://dx.doi.org/10.24327/ijrsr.2019.1006.3528>

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