

Perspectives

on KwaZulu-Natal

Volume One - Number Eight - October 2001

Forensic nurses trained in KwaZulu-Natal, but no crime kits for forensic tests

KwaZulu-Natal nurses have been trained in forensic nursing as part of an attempt to create 40 crisis care centres at hospitals in the province, writes **Cheryl Goodenough**. Forensic nursing is concerned with medical and legal aspects and emphasises the gathering of evidence that can be presented in a court of law.

District surgeons have in the past performed the task of obtaining evidence from rape and abuse victims. But a number of these - who mostly perform this role on a part-time basis in addition to running a private practice - have come under severe criticism over the past few years for their treatment of patients. According to one article published in September 1998, a 15-year-old girl who had been raped had to wait over 48 hours before being attended to by a district surgeon. Police said at the time that it was not the first time that a district surgeon had not been available to attend to a rape victim and that in other cases, when a district surgeon was contacted, he first asked the victim's age and race.

Another article published in May 1999 quoted the head of forensic medicine at the University of Natal Medical School Professor Mohamed Dada as saying that the poor prosecution rate in rape and murder cases was because district surgeons and the police lacked training and expertise. Dada outlined a survey that found that 55 percent of legal practitioners who were questioned felt that district surgeons had insufficient knowledge and forensic training to provide evidence. The article states: "Seven-five percent of legal practitioners said they had encountered incomplete dockets due to failures by the district surgeons and such delays had had a prejudicial effect on cases. They also found that district surgeons had a poor ability to differentiate between - and explain - the cause, mechanism and mode of death. They could not distinguish between fact and opinion. They could not withstand cross-examination and were poorly prepared for court."

As far back as November 1996, the director of forensic services in the KwaZulu-Natal department of health Shereen Akoojee said in an interview with Human Rights Watch that the department was aiming to create 'one stop' crisis care centres at hospitals and community health centres throughout the province. Some centres were established as planned, but in about October 1998 it was found that the 'one stop' facilities were not at all venues for various reasons. These included the refusal of many district surgeons to travel to the centres to perform examinations. Such occurrences are reported in the article mentioned above about the teenager where it is stated that police were transporting victims in police vans from the crisis centre at the Empangeni hospital to Richards Bay to see a district surgeon.

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Department of health officials have also questioned the ability of the district surgeons to carry out the forensic tests required. A report written by department officials about the establishment of the crisis centres states that "very few doctors are conversant with forensic medicine, the detail and standard of the medical examination required and the compilation of medical reports for legal purposes".

It was attempted to overcome such difficulties that resulted in the training of qualified health care professionals as forensic nurses. In most cases nurses are the first point of contact with a survivor of violence, abuse or rape, according to KwaZulu-Natal health minister Zweli Mkhize. "The unique skills of nurses educated in forensic technique will enhance the investigative capabilities and forensic functions of our hospitals," he says.

A ceremony to present 22 nurses with certificates to mark their completion of the first part of the forensic nurse examiner training was used as an opportunity for Mkhize officially to announce the establishment of 40 Siyanakekela (derived from the Zulu word meaning 'we care') crisis care centres throughout KwaZulu-Natal. Media statements announced that the centres would be set up over within three years to provide "a caring and safe environment" for survivors of rape and abuse. Akoojee says that "it is hoped that the crisis care centres will embody a strong sense of caring for the physical, medical, emotional and legal rights of each patient".

Minister Mkhize said that nurses who are specially educated in the medico-legal aspects of violence, abuse and rape would be able to help bridge the gap between health care and law which had seen many criminals go free in the past. "They will provide a link in the chain of evidence necessary to convict those who are guilty of their crimes and to protect those who are innocent."

The 22 nurses were trained for five weeks by the internationally recognised founder of forensic nursing as a scientific discipline Virginia Lynch of the United States. She was assisted by several other Americans including a part-time police officer, the co-ordinator of sexual assault nurse examiner services in the office of the attorney general in Texas and a forensic nurse practitioner.

The administration of a training course by people who are largely unfamiliar with the criminal justice system in South Africa has been raised as a matter of concern by several agencies involved in issues of rape and child abuse. However, officials who were involved in the organisation of the training say that the forensic examination of patients is universal and that local experts were brought in to assist in teaching the nurses about the technical, legal issues.

In addition Lynch has also provided training in the Northern Cape province in 1998. Several sources have said that the nurses trained during these programmes were returned to their previous positions where they had little scope to use their forensic nursing skills. This is an outcome that KwaZulu-Natal is determined not to repeat. Crisis care centre spokesperson Alexandra van Essche says that the involvement of the Minister Mkhize and the head of the department of health Professor Ronald Green-Thompson has been an important factor because KwaZulu-Natal officials saw what happened in the Northern Cape.

The certified nurses are required to complete a second component of the course that entails a 120-hour internship of supervised practical work. The first trainees will be supervised by forensic pathologists and by Lynch on her return to Durban in November. In future the supervision will be handled by nurse educators who have done the first training programme. Lynch is expected to

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begin training a second group of nurses and nurse educators on her return to South Africa.

Akoojee is reluctant to attach a figure to the cost of the training, but KwaZulu-Natal Premier Lionel Mtshali announced earlier this year that the department of health had been given R10 million for the establishment of the crisis care centres. Akoojee says that USAid has also provided funding for the training.

While in South Africa to conduct the first course, Lynch said that internationally there has been an historic lack of co-operation with regard to health and justice issues. This deficiency, as well as the lack of forensic education available to health care professions, has often threatened a patient's legal rights and resulted in a miscarriage of justice.

"Forensic nursing assumes a mutual responsibility with forensic scientists and the criminal justice system in concern for victims of violence, abuse and rape. As well as these crucial medico-legal skills, nurses can bring empathy, compassion and respect to survivors of such crimes," says Lynch.

"A forensic nurse examiner fills a void by conducting forensic tasks concurrently with criminal and biomedical personnel. The education of nurses in forensic technique represents a new, holistic approach to the management of medico-legal cases involving victims of violent crime, perpetrators of criminal acts and the families of both."

The training that the nurses have been given is concerned particularly with specialised skills in the collection and preservation of medical evidence as well as in court procedures. The primary objective is that nursing staff will be equipped to play a role as a vital link in the chain of evidence that is necessary to prosecute and convict a perpetrator of violence, abuse or rape in a court of law.

The chief prosecutor at the Pinetown Magistrates' Court, Amy Kistnasamy spoke during the training programme about the role of forensic nurses as witnesses in a court of law. "You can provide crucial, expert evidence for the prosecutor to prove beyond a reasonable doubt that an accused is found guilty. The information you present in court can assist the criminal justice system in arriving at the truth and can make or break a case."

Kistnasamy emphasised that nurses must always follow correct procedures, including the completion of necessary documentation and forms. Often a case is heard many months, sometimes years, after the incident and the nurse would have to refer back to this documentation before testifying. Nurses also need to be confident of the details of the case because they are open to examination and cross-examination.

The nurses learned during the course about ammunition and how to analyse the type of injury that may result from different calibres of firearm, as well as about crime scene preservation. Lynch says that they also worked hand in hand with a forensic pathologist in an autopsy.

Lynch says that the proper collection of evidence also protects those who have been falsely accused. "We have an equal responsibility to protect those who are innocent of the crimes for which they have been accused."

It is also hoped that negotiations already underway between the KwaZulu-Natal department of health, the South African Qualifications Authority, the South African Nursing Council and regional tertiary education institutions will be successful in accrediting the forensic nurse examiner training

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course and incorporating it into the nursing curriculum. This could happen by the end of the year and will result in forensic nursing being recognised as a special area of nursing practice in South Africa.

This will position KwaZulu-Natal as the country's premier training destination for forensic nursing. It will also augment the credibility of the newly trained forensic nurse examiners, both in the hospitals and as they fulfil their duty as witnesses in a court of law.

The deputy director general of the provincial department of health, Sayo Skweyiya said that a full-time forensic nursing co-ordinator post had been created and it was hoped that the position would be filled by early next year. "The forensic nursing co-ordinator will oversee the implementation of forensic nursing in the hospitals where crisis care centres are being established, will support the participants of the forensic nurse examiner training course and will develop forensic nursing in the region."

Green-Thompson said that discussions were held after completion of the initial training programme to discuss the deployment of those who had been trained.

The training of 22 nurses is a start in the process of providing services to rape and abuse survivors. However, such training needs to be fast-tracked throughout the province with a focus on the training of those working in the crisis centres that have already been established, as well as other health facilities. According to Green-Thompson, all hospitals - whether or not they have a designated crisis centre - are obliged to render services to trauma victims in terms of department protocols. The protocol for the management of rape survivors at primary health care facilities states: "Under no circumstances is any victim to be turned away to seek help from another institution". Survivors are to be given the option of being examined at a crisis centre. However, if they are "either reluctant or too traumatised to be transferred to the crisis centre, the examination and treatment, including the forensic examination, should be performed by the Sister (in charge)". Full forensic examinations also have to be conducted if a survivor declines to report the matter to the police.

Another concern regards the provision of necessary equipment for health practitioners, including those who have been trained as forensic nurses. Even as the Lynch's training got underway, officials from the KwaZulu-Natal department of health came under fire in the *Natal Witness* newspaper for failing adequately to address issues relating to child rape and abuse victims. Representatives from Child Welfare and Childline were reported as saying that even the crisis centres did not have the crime kits that are used for the collection of medical evidence. The kits contain slides, swabs, test-tubes, and other equipment for the collection of biological samples, including blood, vaginal fluid or matter such as semen or hair. Hospitals also appeared to be unsure about how to treat rape victims who arrived at crisis centres after hours. A medical practitioner told *Perspectives* that anyone who attempts to obtain forensic evidence from a rape victim is totally dependent on the crime kits to confirm "what the doctor can see with his own eyes". The practitioner said: "Defence lawyers thrive on these issues if the procedures are not followed."

In a letter to Green-Thompson, Childline director Joan van Niekerk described one case which she said was an example of many that had been seen at the crisis clinics: "A child of 13 years is referred to the crisis clinic. She is pregnant and reports - on questioning by the clinic staff - that her father has been abusing her. The nursing staff challenge her allegation; desperate for help with the pregnancy she challenges her disclosure to one that she thinks will not be challenged. She is then labelled as dishonest by the nursing staff - a label that impacts on the attitude of staff towards her care. However she is referred through to the doctor for examination." Van Niekerk

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says that the doctor referred the child for an abortion without referring her to the police member on duty at the crisis centre. A social worker then requested that the medical officer in charge of the clinic delay the termination of pregnancy until the police had interviewed the child, taken a statement, provided the necessary forms and requested that tissue samples be taken from the foetus when the pregnancy was terminated.

The doctor, however, reported that the child did not appear to be traumatised. The SAPS officer took note of this comment and a docket was not opened. This occurred "despite the fact that the child is only 13 years and, regardless of who impregnated her, a crime has been committed," says Van Niekerk. The abortion was carried out and no tissue samples were collected.

At the end of August, Van Niekerk said that many crisis centres had been without crime kits for more than four weeks. One hospital in northern KwaZulu-Natal reported that there had been no crime kit for four years.

Cheryl Goodenough heads Profile KwaZulu-Natal cc.

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