Rape Trauma Syndrome

Case Law related to Rape Trauma Syndrome

Rape trauma syndrome. *United States v. Carter,* 26 M.J. 428 (C.M.A. 1988):

Rape trauma is a subcategory of PTSD in the DSM-IV. The psychiatric community recognizes it as valid and reliable. Evidence may assist factfinder by providing knowledge concerning victim's reaction to assault. Rape trauma syndrome evidence will also assist the trier of fact in determining the issue of consent. This would be particularly true where members would likely have little or no experience with victims of rape. *See also United States v. Cox*, 23 M.J. 808 (N.M.C.M.R. 1986); *United States v. Hartford*, 50 M.J. 402 (C.A.A.F. 1999).

Impermissible Testimony. *United States v. Bostick*, 33 M.J. 849 (A.C.M.R. 1991):

Psychologist impermissibly expressed an opinion concerning the rape victim's credibility by discussing the performance of the victim on a "Rape Aftermath Symptoms Test" (RAST) and by stating that the victim did not fake or feign her condition. The expert thus became a "human lie detector." The RAST failed to meet the requirements for admissibility of scientific testimony (lack of foundation). Despite lack of defense objection, the court finds plain error and sets aside findings and sentence.

United States v. Rynning, 47 M.J. 420 (C.A.A.F. 1998):

Not plain error for expert to testify about characteristics of sexual abuse victims in carnal knowledge, sodomy, indecent acts case where the accused raised issues of late and incomplete reporting and other counterintuitive behavior, such as continued affection toward her father, by victim.

United States v. Flesher, 73 M.J. 303 (2014):

Expert testimony about the sometimes counterintuitive behaviors of sexual assault victims/rape trauma syndrome is admissible because it assists jurors in disabusing themselves of widely held misconceptions. However, expert testimony cannot be used solely to bolster the credibility of the government's fact witnesses by mirroring their version of events.

Research Related to Rape Trauma Syndrome

Coping behavior of the rape victim
Ann Wolbert Burgess, Lynda Lytle Holmstrom
American Journal of Psychiatry, 133: 4, April 1976
Abstract:

The coping behavior of rape victims can be analyzed in three distinct phases – the threat of attack, the attack itself, and the period immediately thereafter. The authors analyzed the reported coping behavior of 92 women diagnosed as having rape trauma. Most of the women used verbal, physical, or cognitive strategies when threatened, although 34 were physically or psychologically paralyzed. The actual rape prompted coping behaviors in all but 1 victim. Escaping the situation or the assailant is the primary task immediately after the attack. In counseling the rape victim, it is important to understand her indivicual style of coping, to be supportive of it, and to suggest alternative for future stressful situations.

Of slithy toves, Rape-Trauma Syndrome, burn-out, etc.
Wright, Rogers H.
Psychotherapy in Private Practice, Vol 3(1), Spr 1985. pp. 99-108.
Abstract:

Discusses the diagnosis of rape trauma syndrome (RTS). It is argued that RTS is indistinguishable from posttraumatic shock syndrome. The inconsistency of symptomatology and the posttraumatic course of RTS limit its usefulness as a clinical diagnosis. The nonprofessional uses of the RTS diagnosis, discovered in a review of 35–45 articles, included attempts to provide objective verification that a rape occurred. It is concluded that mental health professionals have an obligation to speak out against the misuse of the diagnostic process by unqualified individuals or agencies.

Rape trauma syndrome: Is it probative of lack of consent?
Graham, Ernest S.
Law & Psychology Review, Vol 13, Spr 1989. pp. 25-42.
Abstract::

Argues that research on the rape trauma syndrome is not probative of consent to prior sexual intercourse, and cannot be used in courtroom settings to corroborate an alleged victim's accusation that prior sexual intercourse with a defendant was nonconsensual. The question of the admissability of rape trauma syndrome is discussed in terms of 3 facts examined in research (consent, prior trauma, and the cause of the alleged victim's current behavior). Analysis of these facts involves the distinction between structural and functional analyses and between experimental and correlational research designs.

Rape trauma syndrome: A review of case law and psychological research.
Frazier, Patricia A., Borgida, Eugene
Law and Human Behavior, Vol 16(3), Jun, 1992. pp. 293-311.
Abstract:

Reviews recent case law on the admissibility of rape trauma syndrome (RTS) evidence and psychological research relevant to concerns raised about its scientific reliability, helpfulness, and prejudicial impact. Results indicate that (1) specific concerns raised by the courts about the reliability of RTS evidence may not be warranted, (2) expert testimony on RTS could be helpful in educating jurors, and (3) expert testimony on RTS does appear to exert some influence on jury decision making in rape trials, but does not appear to unfairly prejudice the defendant.

Rape trauma syndrome in the military courts.
Young, Stephen A.
Bulletin of the American Academy of Psychiatry & the Law, Vol 23(4), 1995. pp. 563-571.
Abstracts:

Indicates that the military courts have developed a rich case law tradition in the area of rape trauma syndrome testimony. These cases are particularly important in the context of a military that is both increasingly female and increasingly sensitive to mixed gender relationships. The military court's approach to rape trauma testimony over the past 15 yrs is reviewed. The approach to testimony at one military medical center is analyzed and a testimony model for the forensic psychiatrist who testifies in a military setting is offered.

Effects of a defense psychological expert witness in acquaintance rape trials.
Burnstein, Victor Joel.
Dissertation Abstracts International: Section B: The Sciences and Engineering, Vol 56(10-B), Apr, 1996. pp. 5830.
Abstract:

This study explored the ramifications of the prosecution's use of a rape trauma syndrome psychological expert in an acquaintance rape trial. Subjects were 207 (92 females, 115 males) University of Texas undergraduates, who listened to one of four versions of an audiotaped simulated acquaintance rape trial. Subjects in the Control Condition listened to the direct and cross-examination of the complainant, several prosecution witnesses, and the defendant. Subjects in a One-Expert Condition also heard the testimony of a prosecution psychiatrist who testified that he had conducted a psychological examination of the complainant and that in his opinion she suffers symptoms consistent with a diagnosis of rape trauma syndrome. Subjects in the Narcissistic Condition heard the testimony of the prosecution expert and a defense psychiatrist, who testified that he had conducted a psychological examination of the complainant and that in his opinion she does not suffer from rape trauma syndrome but rather suffers from a Narcissistic Personality Disorder that might well cause her to bring false rape charges against a man who has rejected her. Subjects in the Borderline Condition heard the testimony of the prosecution expert and a defense psychiatrist, who testified that he had conducted a psychological examination of the complainant and that in his opinion she does not suffer from rape trauma syndrome but rather suffers from a Borderline Personality Disorder that might well cause her to bring false rape charges against a man who has rejected her. Subjects in the Narcissistic Condition and in the Borderline Condition were

significantly more likely to render not guilty verdicts and reach defense-oriented decisions than subjects in the Control Condition. There were no significant differences between Control and One-Expert Condition subjects. These results indicate that the prosecution's introduction of a psychological rape trauma expert may backfire and may result in an increased lik

Rape trauma experts in the courtroom.
Boeschen, Laura E., Sales, Bruce D., Koss, Mary P.
Psychology, Public Policy, and Law, Vol 4(1-2), Mar-Jun, 1998. Special Issue: Sex Offenders: Scientific, Legal, and Policy Perspectives. pp. 414-432.
Abstract:

This article analyzes the scientific legitimacy of using expert testimony relating to psychological sequelae of rape victimization in the courtroom and attempts to determine boundaries within which such testimony should remain to respect the limitations of current knowledge. Descriptions of the rape-related diagnoses currently used in expert testimony are followed by a discussion of the problematic issues associated with using rape trauma syndrome in the courtroom and a review of the validity and reliability issues associated with diagnosing posttraumatic stress disorder in forensic settings. The authors consider the scientific appropriateness of admitting different levels of rape expert testimony on the basis of the limitations of the scientific knowledge discussed

Reactions to rape: A military forensic psychiatrist's perspective.
Ritchie, Elspeth Cameron.
Military Medicine, Vol 163(8), Aug, 1998. pp. 505-509.
Abstract:

Discusses rape allegations in the military legal system from a psychiatric perspective. The original definition of 'rape trauma syndrome' and subsequent psychiatric thinking about the diagnosis are briefly outlined. Common reactions seen in military victims in this era are described. A prototypical military case is presented. An adequate evaluation of an alleged victim is outlined. Credentials and preparation of an expert witness are also briefly discussed, with cautions about the use of expert testimony in cases of alleged sexual assault and rape trauma syndrome

Rape trauma syndrome: An examination of standards that determine the admissibility of expert witness testimony.
Biggers, Jacquelyne R., Yim, Chong I..
Journal of Forensic Psychology Practice, Vol 3(1), 2003. pp. 61-77.
Abstract:

Specialized literature on women's reactions to rape was virtually non-existent before the emergence of the women's movement in the early 1970s. By speaking out publicly, however, advocates of the civil rights reform compelled the conception of rape trauma syndrome and a proliferation of research regarding the psychological reactions of rape trauma victims. This growth of psychological knowledge regarding the reaction of rape victims forced the courts to reexamine the standards relating to the admission of expert testimony as developed in the case Frye v. United States. As a result of this reexamination, courts have relied upon opposing standards of proof to determine the admissibility of rape trauma evidence such as those developed in section 403 and 702 of the Federal Rules of Evidence and those outlined in the case of Daubert v. Merrell Dow Pharmaceuticals, Inc. The purpose of this paper is to examine rape trauma syndrome as it is commonly understood by both the psychological community and the judicial system and to assess its applicability to the admissibility of expert testimony.

Pathways to false allegations of sexual assault.
Engle, Jessica., O'Donohue, William.
Journal of Forensic Psychology Practice, Vol 12(2), Mar, 2012. pp. 97-123.
Abstract:

Not all **allegations** of **sexual assault** are true. Unfortunately, there has been little work on understanding the prevalence of **false allegations** or **pathways** to these. This paper proposes 11 **pathways** to **false allegations** of **sexual assault**: (a) lying, (b) implied consent, (c) **false** memories, (d) intoxication, (e) antisocial personality disorder, (f) borderline personality disorder, (g) histrionic

personality disorder, (h) delirium, (i) psychotic disorders, (j) dissociation, and (k) intellectual disability. These **pathways** originate in the psychological diatheses of the individual. Further research is needed into the frequency of these **pathways**, ways to accurately detect these, and whether other **pathways** exist.

Rape trauma syndrome.

Tannura, Tammi A.,

American Journal of Sexuality Education, Vol 9(2), Apr, 2014. pp. 247-256.

Abstract:

When the topic of sexual assault is presented in high school and college health courses, it is mostly from a prevention perspective. Rarely do such courses include the mental and emotional health issues suffered by the rape survivor. Knowledge about rape trauma syndrome helps significant people in the victim's life understand the full range of reactions to the traumatic experience of rape. This lesson describes survivors' behaviors and reactions after a rape, otherwise known as rape trauma syndrome. Included in this lesson is the federal definition of rape, a summary of rape trauma syndrome, lyrics to a song with relevant applications to the phases of rape trauma syndrome, and a rubric for grading a reaction paper related to the lesson. Three National Health Education Standards are addressed via the lesson as well.

Examining the scientific validity of rape trauma syndrome.

O'Donohue, William, Carlson, Gwendolyn C., Benuto, Lorraine T., Bennett, Natalie M.

Psychiatry, Psychology and Law, Vol 21(6), Nov, 2014. pp. 858-876.

Abstracts:

Rape trauma syndrome (RTS) was first described by Burgess and Holmstrom (1974) who argued that there was little information that described the physical and psychological effects of rape, associated therapy and provisions for protection of the victim from further psychological harm. Since then, there have been several critiques of RTS and empirical evidence exists that RTS is not generally accepted by the relevant scientific community. Despite this, RTS is still used in courts. As such, in this article, we comprehensively evaluated RTS and determined that it is vague and imprecise, its evidential status is questionable, it is inconsistent with the most common sequelae of trauma, it ignores important mediating variables and it may not be culturally sensitive. In light of these critiques, we recommend no further use of this model in courts or in clinical practice.

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