Overview of Drug-Facilitated Sexual Assault

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Introduction

- Definitions
- Scenarios
- Challenges
- Signs & Symptoms
- Specimen Collection
- Toxicological Analysis
- Interpretation Issues
Definitions

- **Sexual Assault**
  Forced, coerced or pressured sexual contact

- **Acquaintance Rape**
  Nonconsensual sexual contact with someone who is known to you

- **Date Rape**
  A type of acquaintance rape, whereby nonconsensual sex takes place between two people in a relationship

- **Drug-Facilitated Sexual Assault**
  Use of a chemical agent to procure sexual contact
Legal definitions of rape vary
DFSA is a relatively new term
Offense whereby a person is subjected to nonconsensual sexual acts while they are incapacitated or unconscious due to the effects of alcohol and/or drugs and are therefore prevented from resisting and/or are unable to consent
Scenarios

- Surreptitious administration
  “slipping a mickey”
- Voluntary administration
- Administration under fraudulent conditions
  (the nature and/or effects of the drug were misrepresented)
- Combination of the above
Challenges Surrounding DFSA

- Drugs Used
- Reporting the Crime
- Collection of Evidence
- Laboratory Methodologies
- Toxicology Testing
- Interpretation
“Chemical Submission”

Any drug that has the ability to render the victim:

- Passive
- Submissive
- Unwilling to resist
- Unable to resist
Signs and Symptoms

- Confusion
- Dizziness
- Drowsiness
- Unconsciousness
- Memory loss
- Slurred speech
- Psychomotor impairment
- Unusual behavior
- Impaired judgment
- Reduced inhibitions
- Physical incapacitation
- Out of body experience
- Anesthetic-type effect
- Paralysis
Signs of DFR

- If a person recalls having a drink but cannot recall what happened for a period of time afterwards
- If a person suspects someone had sex with them but cannot remember any or all of the incident
- If a person feels more intoxicated that their usual response to the same quantity of alcohol
- If a person wakes up feeling hung over, experiences memory loss or can’t account for a period of time
Drugs Used

- Alcohol
- Illicit drugs
- Therapeutic drugs
- Over-the-counter (OTC) drugs
- Other, e.g. Dietary supplements (kava, valerian, passion flower, skullcap), Solvents etc
- Combination of the above
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Specimen Collection

Delay in specimen collection may adversely affect the toxicological and prosecutorial outcome of a drug-facilitated sexual assault

Take immediate action to preserve biological evidence
Challenges with Evidence Collection

- Proper Specimen(s)?
- Sufficient for toxicological testing?
- Preservation of the specimen?
- Chain of custody?
Specimen Collection

Blood
- Pharmacological interpretation
- Shorter detection time
- Collect 20 mL
- Preserve with sodium fluoride & potassium oxalate (gray-top tube)

Urine
- Limited interpretation
- Longer detection times
- Collect ≈ 100 mL
- Preserve with sodium fluoride

Other
- e.g. Hair, saliva, sweat
Toxicology Challenges

- Familiarity with DFSA casework
- Time to focus on DFSA casework (labor intensive)
- Appropriate protocols and procedures
- Immunoassay cutoffs
- Limits of detection
- Detection of novel or new drugs
Interpretation Challenges

- Multiple drug use
- Additive, synergistic, antagonistic effects
- Negative toxicology (specimen collection delays)
- Lack of biological evidence (no specimens)
- Documentation of signs & symptoms
- Consistency of symptoms with implicated drugs
- Timing and onset of symptoms
Case Study #1
Challenge: No biological evidence

- Male 35 year old JPO accused of raping 4 juvenile boys
- Charged with first degree felony and great mental anguish
- Initial complaint from parent of juvenile claiming the his JPO would get drunk on Sundays and call and ask him to come over in his hottub
- Suspect kept boys locked in his house
- Consumed drinks and passed out or were incapacitated
- Victim #1: 14 year old boy on heroin at initial assault, photos taken of him nude
Second victim 13 year old male: stated suspect “gave me some pills that “to where I couldn’t move my body, couldn’t even talk, all I could do was see. I just was like all paralyzed” “In my mind I was screaming no.” Pills were added to his drink, victim was tied up.

Victim statements included:
“I couldn’t move my body”, “couldn’t talk” “I couldn’t fight back”, “I couldn’t fight it”, “In my mind I was screaming no” “I couldn’t move”, “drooling on myself”, “felt mentally handicapped”, “all doped up”…
• Suspect bought victims cars, jewelry, expensive dinners with champagne

• Bought victims any drugs they wanted mushrooms, marijuana, methamphetamine.

• Suspect had alprazolam (Xanax®) and lorazepam (Ativan®) at the residence

• Victims claimed suspect had given them xanax. Effects would last all night, victims woke up many hours later, after passing out, feeling imobile and incontinent. Not being able to comprehend what to do in the morning.

• Other side effects included massive headache, unable to standup, too fatigued to move.
● Suspect admitted to victim he used drugs to make people fall asleep, admitted to using lorazepam.

● Testimony involved careful review of victim statements and drug effects, descriptions/statements by victims were crucial

● Convicted
Case Study #2
Challenge: Non-biological evidence

- Male from rural NM accused of criminal sexual penetration of several minors
- Gave “Sunny Delight” to local underage girls (13-16y) at a “party” held at his house
- Girls voluntarily consumed drinks and passed out or were physically incapacitated
- Girls didn’t remember anything
- Delay in reporting; no biological evidence submitted
- Search warrant on home: Sunny Delight bottle
- Toxicology results: Alcohol detected in orange juice
- Status: Pending
Case Study #3
Challenge: Specimen Delay

- Female reports assault following social encounter
- Drowsiness, loss of consciousness (6-8h)
- Dizziness, weakness, confusion, memory loss
- Consumed 6-9 drinks during course of evening
- Specimens collected 8 days after assault
- Admits smoking marijuana 2 weeks prior
- Blood Toxicology: <2 ng/mL Carboxy-THC, ibuprofen
- Urine Toxicology: Propoxyphene, norpropoxyphene, carboxy-THC, pheniramine, lidocaine, ibuprofen
- Status: Pending
Case Study #4
Challenge: Voluntary Administration

- Female in drug rehabilitation center
- Goes to local casino (next to rehab center) wakes up in Albuquerque (100 miles away) the following day
- No idea how she got there, personal vehicle was missing
- Flashback memory of having sex with somebody
- Urine Toxicology: Cocaine, benzoylecgonine, morphine, bupropion (Wellbutrin®) metabolite, ibuprofen, mirtazepine (Remeron®), atomoxetine (Straterra®)
- Status: Pending
Case Study #5
Challenge: Delay in analysis of sample

- 17 year old male given drink of water which “tasted funny”.
- After smoking marijuana, subject reports unable to stay awake.
- Regained consciousness for very short period of time (less than minute).
- Aware of being assaulted.
- Awoke several hours later
- Symptoms included drowsiness, sedation, stupor, loss of consciousness, dizziness, weakness, panic, nervous, confusion and memory loss
- 12 to 24 hours between incident and sample collection
● Time between collection and testing:
  2 years and 10 months

● Toxicology results:
  urine: diphenhydramine and metabolites

● Quantitation pending

● Status: Pending
Conclusions

- DFSA cases are complex and require specialized training, resources and case management
- The laboratory must be willing to “think outside the box” to accommodate these unique cases
- A Toxicologists may still need to testify in the absence of biological evidence, when the toxicology is negative, or when non-biological evidence is submitted
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