



Drug-Facilitated Sexual Assault

Adapted from OVC TTAC: Sexual Assault Advocate and Service Provider Training - Module 5: Drug-Facilitated Sexual Assault

Purpose

This module is intended to examine drug-facilitated sexual assault.

Lessons

1. Drug-Facilitated Sexual Assault

Learning Objectives

By the end of this module, you will be able to:

- Identify special procedures and “red flags” for supporting a victim of a drug-facilitated sexual assault (DFSA).

Participant Worksheets

Worksheet 5.1, Drug-Facilitated Sexual Assault

1. Drug-Facilitated Sexual Assault

We will conduct an activity using the drug-facilitated sexual assault material that follows.

Drug- and Alcohol-Facilitated Sexual Assault

You may hear members of the SART refer to sexual assault cases involving drugs or alcohol as a drug-facilitated sexual assault (DFSA) or an alcohol-facilitated sexual assault (AFSA).

According to the U.S. Department of Justice Drug Enforcement Administration, DFSA “can happen to anyone, by anyone, whether the perpetrator is a date, a stranger, an acquaintance, or someone you have known a long time” (Drug Enforcement Administration, 2017). DFSA or AFSA occurs when a victim’s intoxication levels impair functioning, and they are not able to consent to sexual activity (National Sexual Violence Resource Center, n.d.).

DFSA and AFSA are common. The National Intimate Partner and Sexual Violence Survey found more than 11 million women and more than 1 million men have experienced DFSA or AFSA in their lifetime. Of women who have experienced AFSA or DFSA, more than 58 percent were victimized by someone they knew (National Sexual Violence Resource Center, n.d.).

Alcohol is still the most common substance used to facilitate sexual assault, and it is involved in an estimated 75 percent of sexual assaults (Garriott & Mozayani, 2001). However, it should be noted “alcohol use itself doesn’t ‘cause’ or account for sexual violence, and the socio-cognitive effects of alcohol do not place all drinkers at equal risk for sexual violence perpetration” (Lippy & DeGue, 2014).

In cases where alcohol and other drugs may be more present (e.g., college campus), research on college women indicates alcohol was used in nearly every assault, including forcible rape, incapacitated assaults, and DFSA (Lawyer et al., 2010). At least half of all acquaintance sexual assaults involve alcohol consumption by the perpetrator, the victim, or both.

While drugs used to facilitate sexual assault are most often given to the potential victim without their knowledge—slipped into a drink, for instance—they also may be taken willingly by victims who are not fully aware of the effects, as is likely when a victim may ingest a “club drug” such as “Ecstasy,” GHB (gamma hydroxybutyric acid), and its derivatives.

When a report is made, it is often significantly delayed, making detection and investigation a challenge. As a result, this crime is seldom prosecuted, and conviction rates are believed to be substantially lower than for non-DFSA.

It is important to explain to the victim they are not responsible for a sexual assault, even if they were drinking or taking illegal drugs voluntarily.

While there are laws on what level of alcohol constitutes driving under the influence, there are no laws indicating what level of intoxication constitutes an AFSA. The SANE will ask questions to try to elicit answers that may support an AFSA.

Drugs currently used to facilitate sexual assault include, but are not limited to, the following:

- Alcohol
- Antihistamines (e.g., Diphenhydramine or Benadryl)
- Benzodiazepines
- Diazepam (Valium)
- Clonazepam (Klonopin)
- Lorazepam (Ativan)
- Alprazolam (Xanax)
- Midazolam (Versed)
- Temazepam (Restoril)
- MDMA/Ecstasy
- GHB and its precursors
- GBL (gamma butyrolactone) sold as a dietary supplement (e.g., Blue Nitro, Renewtrient)
- Tranquilizers (Ketamine)
- Zolpidem tartrate (Ambien)
- Flunitrazepam (Rohypnol) (not available legally in the United States)

As an advocate, it's important to be aware of any slang or nicknames for some of these drugs because the victim may not use or know the medical name—additionally, the drug's street name may change from culture to culture. Helping to identify the drug will be critical for the SANE if the victim seeks medical treatment and/or if the victim chooses to report the sexual assault to law enforcement.

Related Federal Law

Hoping to facilitate prosecution and limit the widespread illegal import and use of some of these drugs, Congress passed the Drug-Induced Rape Prevention and Punishment Act of 1996.

An amendment to the Controlled Substance Act, the Drug-Induced Rape Prevention and Punishment Act of 1996 imposes up to a 20-year prison term for anyone who gives a controlled substance to another person without that person's knowledge with the intent of committing a sexual assault. It also provides for a sentence of up to 20 years for the distribution and import of flunitrazepam into the United States.

In 2000, the Hillary J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000 (H.R. 2130) was signed into law. Among other mandates, this legislation made GHB a Schedule I controlled substance.

You should become familiar with local, state, and federal laws on this topic to inform the victim, but if there are any indepth questions about laws, you may want to encourage the victim to ask questions and discuss this with local law enforcement or prosecutors. If the victim is not comfortable, state sexual assault coalitions often have legal information available to the community.

Signs of Possible Drug- or Alcohol-Facilitated Sexual Assault

To help the victim determine if they may have been the victim of a DFSA or AFSA, you must be aware of identifying signs of impairment. As with any alcohol or drug consumption, reactions vary from person to person (Drug Enforcement Administration, 2017); however, the following signs/symptoms of impairment are important to know because they may be signs of a DFSA or

AFSA and may warrant toxicology screening for optimal care:

- Drowsiness
- Fatigue
- Light-headedness
- Dizziness
- Physiological instability
- Memory loss
- Impaired motor skills
- Severe intoxication
- Impaired conscious state
- Disorientation or confusion
- Impairment of speech or coordination
- Talk about having an “out-of-body” experience
- Waking up with no memory, missing large portions of memory, or snapshots of memories
- Unexplained loss or rearrangement of clothing
- Statement from a patient or accompanying person that the patient was or may have been drugged
- Lack of recollection of event(s)
- Unexplained signs of trauma, particularly genital trauma
- Apparent intoxication that does not correspond to reported alcohol consumption
- Nausea
- Feeling drunk when the patient hasn’t consumed alcohol or consumed small amounts

The length of time that drugs used for DFSA remain in urine or blood depends on a number of variables (e.g., the type and amount of drug ingested, patients’ body size and rate of metabolism, whether patients had a full stomach, whether they previously urinated). Urine allows for a longer detection window of drugs commonly used in these cases than blood. The sooner a urine specimen is obtained after the assault, the greater the chances of detecting substances that are quickly eliminated from the body (Office on Violence Against Women, 2013).

What To Do If You Suspect Drug- or Alcohol-Facilitated Sexual Assault

If the advocate suspects a drug was used to incapacitate the victim, or the victim states they aren’t sure, and it’s within 72 hours of the assault, encourage the victim to seek medical assistance immediately. As with any forensic exam, encourage the victim not to urinate until they arrive at the medical facility. If the victim states they must urinate, suggest they urinate into a clean container. The victim should bring this urine to the hospital and give it to the SANE or other medical personnel conducting the forensic exam.

Urine samples allow a longer detection time than blood samples (National Sexual Violence Resource Center, n.d.). In the case of a DFSA, the first urine out of the victim may contain metabolites of the drug they were given, which can be used to identify the drug. These metabolites are excreted from the victim's system with each subsequent voiding, making it less likely the metabolites will remain in sufficient quantity to be identified. Many drugs used in DFSA leave the body rapidly, so it's important to discuss this aspect with the victim so they can make an informed decision quickly.

What the SANE Will Do

With the victim's informed consent, the SANE will obtain blood and the first (or first available) urine sample, maintaining the chain of custody. They will inform the victim about any confidentiality limitations, whether they can be identified only by a number, and for what drugs the victim will be tested. It is important to inform the victim if other illegal substances were used voluntarily, those drugs would most likely show up in the results.

Because of the wide range of drugs used to facilitate sexual assault, a complete drug screen should be done and the urine or blood tested for more than just one or two substances. SANEs keep current on local testing options to determine the best resource.

Options may include the state crime laboratory or a private laboratory. With so many other similar derivatives, this limited testing may give a false negative. Most private laboratories do not have the ability to test for the drugs used to facilitate sexual assault, although more are developing the capacity.

Who Will Have Access to the Results?

As an advocate, it's important to talk to the victim about the process and the exam results. Victims often have questions such as: Will access be limited to the legal system? In the case of an adolescent, will the parents be informed? What about the medical insurer?

If possible, advocates should consult with the SANE to determine the following:

- Will the victim be informed of the results of their drug screen?
- If yes, who will report the information to the victim?
- Who should the victim contact if they have questions about the drug screen?

In most cases, the answers depend on who ordered the testing and what lab is conducting the testing.

Impact on the Victim

When drugs are used to facilitate a sexual assault, most victims may not recall all the details of the assault and, in some cases, may not know the perpetrator. While recovery and healing vary from victim to victim, victims of a DFSA or AFSA may have a considerable amount of difficulty with the event. In addition, the victim may find the healing process even more challenging when the potential DFSA or AFSA involved someone they know and may have trusted.

As with any sexual assault, the healing process for some victims of DFSA or AFSA may proceed at different rates and may not be linear. In the case of DFSA or AFSA, it's important to remind the victim a negative toxicology result does not serve as proof that the victim was not exposed to a drug; as rapid metabolism of the drugs and the time interval between the assault and the collection of evidence increases, so do negative findings.