

An International Consensus on the Forensic Assessment of Sleep-Related Violence and Sexual Behavior in Sleep: If Not Now, When?

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We read with interest the letter by Dr. Rumbold and colleagues¹ with their comments about our systematic review of medical-legal case reports of sleep-related violence and sexual behavior in sleep recently published in the *Journal of Clinical Sleep Medicine*.²

We are pleased to note that these authors share the core recommendation from our study, i.e., the need for a uniform reporting of forensic sleep cases. In order to provide more data, we further analyzed all the retrieved case reports (N = 36), finding out that the information least provided was that regarding the forensic evaluation (provided only in 58% of reports), followed by the description of defendant characteristics (60%), circumstantial factors of the alleged event (68%), description of victim characteristics (72%), and the legal issues (81%).

We also agree with authors about the importance to devote more efforts to systematic research in this field, and that the “current evidence base is not robust enough to support a useful set of international guidelines.” For this reason, in our article we did not call for the development of international evidence-based guidelines. Rather, we advocated an “international multidisciplinary consensus” among experts. This distinction is not a moot point.

Evidence-based guidelines are based on a systematic review of the literature focused on a high level of evidence, and include specific recommendations supported by that evidence. However, achieving a high level of evidence (e.g., based on randomized controlled trials and cohort studies) is particularly difficult in the medical-legal field due to both methodological and ethical constraints, not to mention the difficulty in obtaining external funds for research in this field.³ When scientific evidence is lacking or there is contradictory evidence on an issue, consensus approaches provide a means of “harnessing the insights of appropriate experts to enable decisions to be made.”⁴

We reaffirm here that, in our opinion, now is the right time for developing an international multidisciplinary consensus on the forensic assessment of violent and sexual behaviors during sleep, for at least two reasons: (1) Our review study showed the lack of *common and shared standards* for the sleep expert workup; and (2) There is the need to identify which are the

most urgent areas towards pooling future research efforts on this question. In developing of such a consensus, input from independent experts (i.e., academic leaders and methodologists unbiased with the issue) would be essential. We believe that the adoption of a systematic approach to develop a consensus and the involvement of unbiased experts will assure the achievement of an agreement on specific statements on one hand, and to report all significant divergences among experts on the other.

Regarding the point that “an international consensus could not address the needs of different jurisdictions,” in our view the consensus should focus on the standards for the sleep expert workup, and not on legal questions, which are necessarily related to the various domestic laws. Science is science and law is law. We do not believe, therefore, that “subtly different legal questions may require different assessment for forensic sleep disorders,” but we trust that on the basis of internationally recognized standards for dealing with sleep forensic cases, each expert should and will address the legal questions of the case according to the legal system in which he/she is serving. Also, we believe that our approach may encourage the law to “catch up to the science” in regards to parasomnias and sleep violence, and their proper clinical evaluation.

This does not mean that we are disregarding the importance of the deep differences across legal systems with regard to criminal culpability and liability. On the contrary, to offer a faithful depiction of these differences, in our study we usually reported word-by-word all the information related to the legal issues, as they were written in the source articles.

Regarding the “alcohol affair,” taking a position in the current debate about its role in triggering parasomniac behaviors was beyond the aims of our work. For this reason, we preferred to provide the readers with the most recent and comprehensive references, to allow them to develop their own opinion on this topic, which would certainly constitute an important issue in an international consensus among experts.

Finally, regarding the sleep expert credentials, we can here recall only that by now, fortunately, the international scientific community, as well as scientific research, goes beyond the national boundaries and there are already international recognized

certifications for sleep experts,^{5,6} who, we agree, should also have sufficient regular exposure to patients with parasomnias. We add that in our opinion they should also have enough knowledge about the legal rules to serve as good and fair experts even in cases in which a life was taken, and the reputation and the freedom of another life are on trial. To cite Dante Alighieri (Florence 1265–Ravenna 1321), we hope that the awareness of this responsibility will be for sleep experts “lead unto thy feet, to make Thee slow in motion, as a weary man, Both to the ‘yea’ and to the ‘nay’ thou seest not.”⁷

We thank Dr. Rumbold and colleagues for their interest in our work, and their stimulating comments. We also thank the Editor for the opportunity to answer. We think that this debate is very important and calls attention to the problems encountered by sleep experts involved in forensic sleep cases and for the need, in the research field, to also consider the forensic assessment when studying violent and sexual behaviors in sleep.

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DISCLOSURE STATEMENT

The authors have indicated no financial conflicts of interest.