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POST Guidelines on Adult / Adolescent

Sexual Assault Investigation

California Commission on POST

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Foreword

Sexual assault is one of the most serious and offensive crimes committed in our society. It is a threat to the community and it may have lifelong impact on its victims. The trauma associated with sexual assault differs from other forms of victimization. Due to the invasive nature of sexual assaults, it is especially important that responding officers are trained to develop a supportive environment for victims. It is paramount that victims feel secure and protected when law enforcement personnel follow investigative protocols necessary to help ensure prosecution of the crime.

Penal Code (PC) §13516 requires the Commission on Peace Officer Standards and Training (POST) to prepare guidelines establishing standard procedures for law enforcement agencies to follow in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children. These guidelines include police response to, and treatment of, victims of these crimes. The statute also requires POST to prepare and implement a sexual assault investigation training course. This guideline document has been updated to incorporate changes in the law and changes in investigative procedure.

Guidelines are presented in a format that will allow the reader to follow a systematic process for conducting a sexual assault investigation. POST encourages the sharing of this information with all law enforcement personnel who may serve as the liaison between the sexual assault victim and the criminal justice system.

The Commission appreciates the contributions of the Sexual Assault Investigation Guidelines Review Committee for assistance in updating this information. Questions or comments concerning this document should be directed to the Training Program Services Bureau at (916) 227-4885.

Paul Capittelli, Executive Director
California Commission on POST

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Guidelines for Investigations

These guidelines are for law enforcement use when responding to and investigating sexual assault cases. Responses will vary depending upon individual agencies and jurisdictions.

Goals

The goals established in preparing these guidelines are as follows:

- Improve the law enforcement response to reports of sexual assault.
- Enhance the investigation and prosecution of these complex and sensitive cases.
- Familiarize law enforcement personnel with all pertinent laws and resources associated with sexual assault crimes including local, state, and federal agencies.
- Provide officers with information on how to assist, interact with, and educate victims about the criminal justice process.
- Describe common misconceptions and realities about sexual assault.
- Provide an understanding of the benefits of the Sexual Assault Response Team (SART) approach, even if it is not formalized in the officer's jurisdiction.
- Provide information on how to conduct unbiased and effective forensic interviews with victims, witnesses, and suspects in order to determine the facts and to protect the rights of all parties.
- Safeguard the community.

Major Definitions

Sexual assault is a crime of forced and/or non-consensual sexual violence that is defined by one or more of the following acts:

Rape Penile-vaginal penetration, however slight

Oral Copulation Contact between the genitals and the mouth

Sodomy Contact between an anus and a penis

Rape/Sodomy Sexual penetration of the vagina or anus with anything other than a penis

Sexual Battery Sexual contact with or without penetration with an incapacitated person

Guideline 1

SART

Law enforcement should be familiar with the general definitions of sexual assault, the conditions under which sexual assault typically occurs, and the Sexual Assault Response Team Approach (SART).

Sexual assault typically involves but is not limited to one of the following conditions:

1. Force was used or threatened, even if there is no injury to the victim.
2. The victim was afraid, under duress, or coerced, even if this did not lead the victim to physically resist.
3. The victim was severely disabled and could not legally give consent. (The victim could not understand the nature or condition of the act due to illness or disability.)
4. The victim was severely intoxicated or unconscious because of drugs or alcohol and was therefore unable to give informed consent at the time of the sexual assault.
5. The victim was under the age of eighteen at the time of the sexual assault.

See: Appendix 1: Laws Pertaining to Sexual Assault, page 31

Sexual Assault Response Team (SART)

An interdisciplinary team comprised of law enforcement, victim advocates/counselors, medical personnel (forensic examiners), criminalists, prosecutors, and members of other community resource agencies working in collaboration to meet the medical and emotional needs of the sexual assault victim and the forensic needs of the criminal justice system.

Guideline 2

Common Misconceptions

Law enforcement should be familiar with the common misconceptions and realities associated with sexual assault because they can affect case evaluation and report writing.

There are a number of misconceptions associated with sexual assault including, but not limited to, the following:

	Misconception	Reality
1	The perpetrator usually looks mean and carries a weapon.	Most sexual assaults do not involve a weapon.
2	The perpetrator typically stalks the victim like a predator and attacks at night in parks, on dark streets, or breaks into homes.	In many cases, assailants do not stalk victims on darkened streets and parks, nor do they break into the victim's home. The suspect often does not fit the stereotype of a "rapist" and, in some cases, is a respected individual with status in the community.

	Misconception	Reality
3	The assault typically involves a great deal of physical violence and leaves the victim physically brutalized with obvious signs of injury.	Many sexual assaults do not result in visible physical injury.
4	The victim is visibly hysterical when reporting the assault.	A victim of sexual assault may be in shock and appear outwardly calm, or express an entire range of emotions from anger to deep sorrow. There is no "typical" reaction. It is important for responding personnel to refrain from judging or disregarding the victim.
5	The victim immediately reports the assault to police.	Many victims do not report the assault or delay reporting the event for days, weeks, months, or even years.
6	The victim is certain about most, if not all, of the details of the sexual assault.	Victims may omit, exaggerate, or fabricate parts of their accounts, and they may recant altogether.
7	Sexual assault is only committed against women or within the heterosexual community.	Sexual assault is committed against men and most often involves a male perpetrator. Sexual assault and intimate partner violence occur in the lesbian, gay, transgender, and bisexual communities.
8	The victim is usually young, able-bodied, and attractive.	Individuals with disabilities are sexually assaulted at a greater rate than the general population. See: Victims with Disabilities, page 48.
9	"Date rape" is simply miscommunication involving consensual sex.	Non-stranger sexual assault is a serious crime that cannot be explained away as "miscommunication".
10	Many women secretly desire to be sexually assaulted and may say "no" when they actually mean "yes".	This fallacy perpetuates the stereotype that women have "rape fantasies" and focuses the blame on the woman rather than the perpetrator.
11	Women "ask" to be sexually assaulted because of the way they act and dress.	Regardless of the way a woman dresses, she is not responsible for the behavior of the perpetrator.
12	False rape allegations are common and are typically filed by women trying to "get back at a boyfriend" or cover up a pregnancy, affair, or other misbehavior.	Substantiated false reports are rare. In fact, studies estimate that approximately four percent of all sexual assault reports are determined to be false. People with serious psychological and emotional problems file the majority of false reports.

Guideline 3

Delayed Victim Reporting

Law enforcement should be familiar with the phenomena of delayed victim reporting.

Victims of sexual assault are often reluctant to report or withhold information due to one or more of the following factors:

1. Anticipated family response
2. Anticipated media coverage
3. Anticipated peer response
4. Cultural, religious, ethnic beliefs
5. Denial
6. Disability
7. Embarrassment
8. Fear
9. Potential retaliation
10. Lesbian/Gay/Bisexual/Transgender (LGBT)
11. Guilt
12. Lack of support system
13. Lack of trust
14. Not sure what happened
15. Perception of law enforcement officers
16. Prior history of sexual abuse
17. Sense of helplessness
18. Unfamiliar with laws

Victims often fear their sexual assault report will not be believed or taken seriously because of one or more of the following factors:

1. They know their assailant.
2. They are related to or closely acquainted with the assailant.
3. The sexual assault was preceded by consensual intimate contact with the assailant.
4. They are intimidated by the assailant's position, power, or social status.
5. They engaged in drug or alcohol use.
6. They engaged in high-risk actions such as entering a stranger's automobile or apartment.
7. They have an arrest record or outstanding warrant.

8. They were engaged in illegal activity at the time of the offense.
9. They fear being perceived as having an ulterior motive.

Guideline 4
Victim Dynamics

Law enforcement should understand victim dynamics and effectively respond to all victims from varying life circumstances.

Victim Considerations

It is important to keep in mind that the victim has been through a traumatic, degrading, life-changing event. The victim requesting assistance may be traumatized and in crisis. Law enforcement personnel should:

1. Show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport.
2. Understand they will encounter victims from varying life circumstances often requiring additional awareness and/or resources.
3. These victims may be any of the following:
   - A. Uncooperative/highly agitated
   - B. College students
   - C. Elderly
   - D. Assaulted by someone of the same sex
   - E. Assaulted by an intimate partner or spouse
   - F. Individuals with barriers such as: hearing impairments, cultural and/or language differences, varying religious affiliations
   - G. Engaging in high-risk behavior such as prostitution
   - H. Lesbian/Gay/Bisexual/Transgender
   - I. Males
   - J. Disabled (including but not limited to: individuals with physical, communicative, neuromuscular, developmental, cognitive, visual, medical, learning, and/or psychiatric disabilities)
   - K. Mentally ill and/or demonstrating psychiatric symptoms
   - L. Confined individuals or inmates

See: Appendix 2: Victim Considerations, page 45

Law enforcement officers should be familiar with human trafficking. Refer to the 2007 POST Guidelines "Law Enforcement Response to Human Trafficking."

Guideline 5

Common Defenses and Types of Evidence

Law enforcement officers should be familiar with the common defenses to charges of sexual assault and the different types of evidence to be collected.

Common Defenses to Charges of Sexual Assault

1. Denial: "It did not happen."
2. Identity: "It happened, but it was not me."
3. Consent: "It happened, but it was consensual."

Non-stranger sexual assaults often result in a consent defense. Evidence of particular importance that may establish the absence of consent, and/or the presence of force or threat includes:

1. Evidence of physical or verbal resistance by the victim
2. Evidence of genital or non-genital injury
3. Detailed account of the victim's thoughts and feelings during the assault
4. Information regarding the suspect's size and strength in comparison to the victim's
5. Information regarding the environment in which the assault took place such as an isolated location
6. Detailed account of any possible relationship dynamics including manipulation and intimidation
7. Information regarding the victim's behavior after the assault, including symptoms of posttraumatic stress
8. Information regarding the victim's level of intoxication

Stranger sexual assaults may result in an identity defense. Evidence of particular importance includes:

1. Latent fingerprints
2. Lineups (live, photo, voice)
3. Forensic DNA (blood, saliva, semen, contact DNA)
4. Trace evidence (fibers, hair)
5. Composite drawings
6. Physical evidence (fingerprints, bite marks, tire tread, footwear impressions)

If there is evidence to confirm identity, the officer should be prepared for a consent defense. It is common for suspects to change defenses depending upon the circumstances of the case.

Guideline 6

Investigate All Reports

Law enforcement should investigate all reports of sexual assault as legitimate cases.

False Reports

False complaints of sexual assault do happen but they are rare. The majority of reported cases are legitimate. All cases should be thoroughly investigated to avoid traumatizing victims by questioning their veracity.

Guideline 7

Dispatcher Responsibilities

Law enforcement should be familiar with the responsibilities of the dispatcher/call-taker receiving a report of sexual assault.

Communications

Dispatchers have an impact on how sexual assault calls are handled. The ability to gather information affects:

1. Victim safety
2. Officer safety
3. Apprehension of the suspect
4. Preservation of evidence

Dispatchers may influence the following:

1. How the officer perceives the incident and the victim
2. How the victim responds to the officer

As part of the emergency response, dispatchers should obtain the following information:

1. Where is the victim?
2. Is the victim safe?
3. Is the victim in need of medical attention?
4. Where is the suspect?
5. Is there a weapon involved?
6. What happened?
7. Where and when did it happen?
8. Does the victim know the suspect?
9. What is the suspect description (name, age, height, weight, ethnicity, scars, marks, tattoos, gender, clothing, and vehicle)?

To ensure critical evidence is not lost, dispatchers should:

1. Explain to the victim that several questions need to be asked while the officer is responding to the location.
2. Advise the victim that many actions can contaminate, alter, or destroy potential evidence.
3. Request that the victim not change clothes, bathe, wash hands, brush teeth, gargle, douche, urinate, defecate, remove tampon, or make other physical changes. If unavoidable, ask the victim to use a clean container to collect any potential evidence.
4. Tell the victim that the crime should still be reported even if the victim has bathed or performed other personal hygiene or bodily functions. Other evidence may still be identified and recovered.
5. Advise the victim not to touch or disturb anything the suspect may have had contact with or handled.
6. Preserve the communications tape and printout for the investigation; everything said and done is potential evidence.

Guideline 8

Emergency Responsibilities

Law enforcement should be familiar with the emergency responsibilities of the first responding officer(s).

Responding Officer(s) Actions

As part of the emergency response, the initial officer(s) should do the following:

1. Contact the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.
2. Clearly explain to the victim the role of the responding officer.
3. Evaluate the scene for people, vehicles, and/or objects involved as well as possible threats.
4. Secure the crime scene to ensure evidence is not lost, changed, or contaminated.
5. Explain the need to protect evidence on the victim's body and clothing.
6. Identify any potential witnesses, especially the first person the victim told about the sexual assault (fresh complaint witness).
7. Determine if there are multiple crime scenes.
8. Confirm the suspect description and initiate a search for the suspect when appropriate (broadcast description).
9. If the suspect is present, detain and remove from scene.
10. Relay all vital information to other responding officers and supervisors, including any possible language barriers.

11. Request assistance from detectives, crime scene investigators, crime laboratory personnel, and prosecuting attorneys when appropriate.
12. Ask the victim about any circumstances indicating the use of alcohol or drugs to facilitate the assault such as loss of memory, disorientation, severe illness, hallucinations, or altered levels of consciousness.
13. Determine the time of the incident as soon as possible in order to make decisions regarding the collection of urine and blood samples. This is especially critical when the sexual assault may have been facilitated with drugs or alcohol.
14. Explain the importance of this evidence to the victim and request cooperation. It may be necessary for the officer to collect a urine sample immediately.
15. Ask the victim if anyone should be called or notified, and then facilitate this contact.
16. Address any special needs of the victim.
17. Record specific observations of the crime scene, including the demeanor of the victim and the suspect. Was the victim crying, shaking, or laughing? Did the victim appear intoxicated?
18. Document any injuries and/or visual observations of the victim's and/or the suspect's condition. Consider photographing and/or videotaping the injuries.
19. Ask if the victim has any questions.
20. Identify and secure any potential surveillance recordings.
21. Arrange for a neighborhood canvass to be conducted. Limit the amount of information provided to the neighbors to protect the victim's privacy.

Guideline 9
Initial Victim Interview

Law enforcement should understand the responding officer's responsibilities in conducting the initial victim interview.

Factors to Consider Prior to the Initial Victim Interview

Prior to initiating the interview, the responding officer should consider the following:

1. Sexual assault investigations typically include an initial and subsequent in-depth interview with the victim.
2. The initial interview is intended to accomplish the following:
   - A. Determine whether a crime has occurred
   - B. Establish the elements of the crime(s)
   - C. Identify any and all witnesses, suspect(s), evidence, and crime scene(s)
   - D. Determine who, what, where, when, how; and to evaluate the need for a forensic examination

3. The initial interview is not intended to be a comprehensive or final interview. Additional interviews will be conducted as the investigation develops.
4. This interview should be conducted promptly if the victim is coherent and agreeable.
5. Questioning should be limited according to the victim's emotional and physical state.
6. Using cognitive and free format interviewing techniques are effective for obtaining detailed information.
7. Quality interviews require developing a rapport with the victim.
8. It is important to remain patient and maintain an open mind while listening to the victim's account. Sitting at eye level may make the victim feel more at ease.
9. Based on the trauma the victim may have experienced, be wary of touching the victim.
10. Terminology appropriate to the victim's age, sophistication level, and intelligence should be used. Leading questions, police jargon, legal terms, and/or run-on sentences should be avoided.
11. When alcohol or drugs are involved, the victim may have limited recollection of the crime or be unable to give a complete account.
12. Even if alcohol or drugs are not involved, the victim may struggle with gaps in memory.
13. Procedures regarding recording all interviews with the victim, witnesses, and the suspect depend upon individual departmental policies. Recording statements can be an excellent investigative tool. If recording, ensure the equipment is functioning properly.
    A. Advantages of recording statements include the following:
        1) Provides more detail than handwritten notes
        2) Enables investigators to be more attentive during the interview
        3) Assists investigators in synopsizing details
        4) Protects the interviewer should a complaint or misunderstanding arise
        5) Conveys the victim's immediate response to prosecutors and jurors
        6) Provides training material for use in improving the quality of interviews
    B. Disadvantage of recording statements might include:
        1) Intimidates the victim causing reluctance to disclose information

Initial Victim Interview

During the initial victim interview, the responding officer should:

1. Allow the victim to select a private and comfortable location for the interview that is free from distractions.

2. Accommodate the victim's request for a support person whenever possible.
3. Take responsibility for excluding a support person when appropriate. If this is necessary, offer the victim and support person an explanation. (For example, a spouse or family member may have an extreme emotional reaction to the assault causing the victim difficulty in discussing details.)
4. Explain the nature of the interview - to determine what took place.
5. Explain to the victim the importance of providing all facts including high-risk or illegal activity including all recent alcohol and/or drug use.
6. Explain that she or he is not responsible for the suspect's assaultive conduct.
7. Communicate empathy and build rapport.
8. Express sympathy to the victim and an interest in the victim's well-being. Acknowledge the victim's ordeal. "I'm sorry this happened to you."
9. Allow the victim to vent emotions.
10. Allow the victim to describe the experience in her or his own words without interrupting. Say, "Tell me what happened," and wait for the victim to complete the narrative before asking questions.
11. Use open-ended questions to clarify certain portions of the incident.
12. If applicable, inquire about and document the reasons for a delayed report.
13. Ask the victim specifically what she or he was wearing during and after the assault.
14. Determine the need for a forensic examination and coordinate with other professionals such as the forensic examiner and criminalist.
15. If the forensic examination is going to be conducted, ensure the medical facility and the rape crisis center are notified.
16. Explain that the forensic examiner, detective, crime scene investigator, and prosecutor will be making contact with additional questions.
17. Obtain contact information, including temporary housing. (If the victim does not have a permanent residence, recommend obtaining a free email address through the local library or other service organization.)
18. Provide the victim with resources and/or other information such as Victim/Witness program services and compensation.

    See: www.victimcompensation.ca.gov.

19. If the victim is under the age of eighteen, make the appropriate written notifications to the Department of Justice, the District Attorney's Office, and Child Protective Services.

    See: http://ag.ca.gov/childabuse/forms.php **for form SS8583 Child Abuse Summary Report and instructions**

Guideline 10

Crime Scene Investigation

Law enforcement should be familiar with the responsibilities associated with processing the crime scene(s).

As part of the evidence collection process, the responding officer (s) should do the following:

1. Request assistance or direction from crime scene investigators and forensic scientists, if available.
2. Understand the differences associated with evidence collection on stranger versus non-stranger sexual assaults.
3. Document the crime scene. Photograph, sketch, and diagram the crime scene(s) before it is disturbed or processed.
4. Photograph suspected bite marks with a scale. Swab for DNA. (This may be completed at the sexual assault examination.)
5. Protect the integrity of the evidence and maintain the chain of custody by properly photographing, marking, packaging, and labeling all evidence collected. Whenever possible, collect the entire object. The following are proper evidence collection procedures:
   - **A.** Use clean, disposable gloves and change them frequently to avoid cross contamination.
   - **B.** Use sterile swabs, papers, solutions, and tools.
   - **C.** Always separate victim evidence from suspect evidence.
   - **D.** Air dry evidence before packaging.
   - **E.** Package evidence in individual envelopes, paper bags, and cardboard boxes.
   - **F.** Avoid touching the areas where potential evidence may be present.
   - **G.** Avoid talking, sneezing, and coughing over evidence.
   - **H.** Collect all potential sources of DNA or other biological evidence such as:
     - **1)** Blood, sweat, tissue/skin, semen, saliva, hair, urine, fecal matter, vomitus, teeth, and bone
     - **2)** Clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals such as undergarments, pants, and shorts. If possible, collect the victim's clothing at the scene and place them in a clean paper bag. This reduces the chances of contamination during transportation to the medical facility. Document the condition of the underwear such as inside out, stretched, or torn.

See: Addendum to OES Form 923 for Clothing Documentation form, page 54

6. If a stain is observed on a large item, identify the location of the stain using arrows or other markers.
7. Collect other potential sources of DNA including but not limited to, the following:
   A. Anything used to clean genital areas of the victim and/or suspect – washcloths, towels, tissue
   B. Any foreign object used to penetrate the victim
   C. Condoms/wrappers
   D. Sheets, blankets, pillows
   E. Bottles, cans, drinking cups, straws (These items can also demonstrate the levels of alcohol use. Photograph and collect as many containers as possible and note their location at the scene.)
   F. Baseball caps, hats, headbands, ski masks
   G. Partially eaten food items, chewing gum
   H. Physical restraints – ropes/ligatures
      1) Do not cut or untie the knots.
      2) Cut the restraints at a place away from the knot.
      3) Mark the cut to show where the pieces fit together.
   I. Guns, ammunition, knives
   J. Envelopes
   K. Feminine hygiene products
   L. Toothbrushes, hairbrushes, ear plugs
   M. Telephone
   N. Tape
   O. Eyeglasses

3. Process any fingerprints, footwear, and tire tread impressions.

See: Appendix 4: Physical Evidence for Submission to Criminalistics Laboratory, page 57

Guideline 11
Victim Examination

Law enforcement should be knowledgeable about the sexual assault victim examination and the proper protocols.

Factors to Consider Prior to the Sexual Assault Victim Forensic Examination

The responding officer should be aware of the following:

1. A timely, professional forensic examination increases the likelihood that injuries will be documented and photographed and evidence will be properly collected.
2. There are no set time limits for when evidence can be gathered and injuries documented, especially if the victim is injured, bleeding, and/or experiencing pain. (The sooner the evidence is collected, the better.)

   Note: At this point in the investigation, depending upon agency policy and resources, the first responding officer may relinquish the investigation to a detective who specializes in this area.)

Investigating Officer's Actions Prior to the Sexual Assault

Victim Forensic Examination

1. Explain the role of the different members of the sexual assault response team (SART) and facilitate the introductions of the team members. Be aware that the victim may bond with the first responding officer.
2. Explain to the victim the purpose and importance of medical screening and the forensic examination.
3. Inform the victim of the right to decline any or all parts of the examination and the potential consequences for refusal.
4. Inquire whether the victim will consent to a forensic examination and obtain a signed authorization form for access to all related medical records.
5. Advise the victim that a counselor/advocate or support person of the victim's choosing can be present in the room during the examination.
6. Advise the victim that the forensic examiner will collect any clothing worn during or immediately after the sexual assault, if it has not been previously collected.
7. Assist in arranging for clothing the victim will need after the examination.
8. Transport the victim to the designated medical facility familiar with established protocols for forensic examination of sexual assault victims.
9. Encourage a victim who is unwilling to undergo a forensic examination to seek medical attention, including testing for pregnancy and sexually transmitted diseases. (If the victim undergoes a forensic examination, these issues will be addressed.)

Investigator's Actions at the Medical Facility

The investigating officer should take the following actions at the hospital:

1. Brief the forensic examiner on the details of the sexual assault, as known at the time. If a drug-facilitated sexual assault is suspected, it is critical to obtain a urine sample from the victim as soon as possible.
2. Whenever possible, the investigating officer should be present while the forensic examiner obtains the victim's history of the events.
3. At the conclusion of the examination, discuss the findings with the forensic examiner.
4. Obtain a copy of the forensic examination medical forms, if available, and attach it to the police report. Summarize the findings in the police report, noting significant information or injury. (The officer needs to have a basic understanding of human anatomy and medical terminology.)

   See: http://www.cmtc.tv/forensic.asp for OES Form 923 and instructions

   See: Appendix 5: Definitions of Anatomical Terms, page 61

5. Provide the victim with the investigator's contact information.
6. Encourage the victim to contact the investigator with any additional information or evidence.
7. Remind the victim that visible evidence of injury may appear later, and to contact the investigator for additional photographs and/or other documentation if this occurs.
8. Assist the victim in obtaining protection orders, if appropriate.
9. Inform the victim about the next steps in the investigation, such as in-depth interviews, possible identification of the suspect, and lengthy court process.
10. Notify the victim of her or his rights, including, but not limited to:
    - **A.** The right to request his or her name not to become a matter of public record
    - **B.** The right to be notified of arrests and court dates
    - **C.** The right to have a counselor/advocate present during all follow-up interviews
11. Ensure that the victim has received written referrals for victim service and compensation organizations.

    See: www.victimcompensation.ca.gov.

12. During the process, provide time for the victim to meet with the advocate/counselor for counseling referrals and follow up care/advocacy.

13. (Note: A victim's inability or decision not to be involved in criminal justice proceedings should not preclude the officer from being willing to offer continued assistance and referrals.)
14. Ensure the victim has transportation to a safe location. If not, provide transportation.

Guideline 12
Evidence Handling

Law enforcement should be familiar with proper evidence handling techniques.

Transfer and Booking of Sexual Assault Examination Kit

Often, after the examination, the responding officer or investigator takes custody of all evidence including receiving the sexual assault evidence kit from the medical staff. The officer should:

1. Ensure the kit is properly sealed and labeled.
2. Immediately transport the evidence to the department or crime laboratory for storage.
3. Ensure the kit is not exposed to heat such as a vehicle's interior heater.
4. Remove any glass items containing blood or urine samples and refrigerate them.
5. Air dry, properly package, and freeze the victim's clothing and/or other evidence.
6. Book and secure all evidence as soon as possible.

Guideline 13
Follow-up Interview

Law enforcement should be familiar with the responsibilities of the officer conducting a follow-up victim interview.

Factors to Consider Prior to Follow-Up Victim Interview

1. An in-depth follow-up interview should be conducted after the victim has been medically examined, treated, and all personal needs have been met. The interview may take place at a later time or date.
2. The interview should be delayed if the victim is still under the influence of drugs or alcohol, is injured, or has not slept and barring exigent circumstances requiring an arrest or identification. (There may be exceptions to this if the sexual assault was drug-facilitated and there is a chance that the victim will have no memory of the assault.)

Prior to the Follow-Up Victim Interview

Prior to the follow-up victim interview, the investigating officer should:

1. Consult with agency personnel who responded to the scene and review all reports.
2. Retrieve communications tapes and printouts.
3. Develop an investigative strategy based on the nature of the assault and the possible defenses available to the suspect, such as denial, mistaken identity, or consent. This strategy should guide the questions and other evidence collection efforts.

4. Determine if other agencies such as Child Protective Services or Adult Protective Services are conducting parallel investigations and coordinate efforts.
5. Contact the victim and advise her or him of the right to have a counselor/advocate present at any follow-up interview and assist in coordination.
6. Provide or arrange for transportation for the victim when needed.
7. Depending upon departmental policy, arrange for equipment to record the interview. Ensure the equipment is working properly.
8. Schedule the interview to take place in a location that is convenient, accessible, and comfortable for the victim.

Follow-Up Victim Interview

During the initial phase of the follow-up interview, the officer should:

1. Discuss the purpose and scope of the interview.
2. Explain the victim's rights, including confidentiality.
3. Depending upon departmental policy, explain the need to record the interview and request the victim's consent.
4. If not previously addressed, inquire about any circumstances that may indicate the use of a drug to facilitate the sexual assault, such as whether the victim experienced any loss of memory, disorientation, severe illness, hallucinations, or altered levels of consciousness.
5. Obtain a detailed description of the victim's alcohol and/or drug use during the time frame of the assault.
6. Request the victim to have visible injuries re-photographed to document changes.

The goals of the follow-up interview are to:

1. Obtain a detailed account of the assault.
2. Allow the victim to describe what occurred.
3. Identify new information or developments, and ask questions.
4. Clarify, in a non-threatening manner, any inconsistencies with earlier accounts of the sexual assault.
5. Document the victim's actions in response to the assault, the victim's state of mind during the assault, specific statements made by the perpetrator, and the nature of any relationship with the suspect.
6. Obtain the following information:
    - A. What was the victim doing prior to the assault?
    - B. Was there any past relationship or contact with the suspect?

C. How did the victim and suspect initially come into contact?

D. Whom did the victim first tell about the assault?

E. Are there any witnesses who have information about the assault, the suspect, or prior assaults?

F. How did the suspect enter and exit the crime scene?

G. What was the suspect's demeanor?

H. Any significant or unusual gestures?

I. A more detailed suspect description: (consider appropriateness of composite sketch.)

▶ Accents	▶ Body hair	▶ Body piercing
▶ Circumcision	▶ Clothing	▶ Colloquialisms
▶ Earrings	▶ Facial hair	▶ Glasses (type)
▶ Gloves	▶ Items carried	▶ Jewelry
▶ Masks	▶ Odors	▶ Scars
▶ Taste	▶ Tattoos	▶ Teeth

J. Was physical force used?

K. Were any real or simulated weapons used?

L. Did the suspect use his or her body to restrain or intimidate the victim?

M. What was the physical positioning of the suspect in relation to the victim? Include size and strength of suspect.

N. Were there circumstances that made the victim feel threatened?

O. Was the victim incapacitated?

P. If restraints were used, be specific about types and location.

Q. Did the suspect bring anything, leave anything, or take anything from the scene?

R. Did the suspect touch or move anything?

S. Did the suspect take any pictures or videos?

T. Did the suspect show the victim any videos or magazines?

U. Did the suspect use any objects during the assault?

V. Did the suspect move or transport the victim?

W. Did the suspect make any threats to the victim?

X. What specific language did the suspect use?

Y. What were the specific acts committed or attempted, what was the order in which they were committed or attempted, and how many times?

- **1)** Penile-vaginal intercourse
- **2)** Sodomy
- **3)** Oral copulation
- **4)** Digital penetration
- **5)** Other foreign object penetration
- **6)** Sexual contact other than penetration

Z. Was a condom used? Type of condom, if known?

AA. Was the condom provided by the victim or suspect?

BB. Where was the used condom/wrapper discarded?

CC. Did the suspect have an erection or have difficulty maintaining an erection?

DD. Did the suspect ejaculate and, if so, where?

EE. Did the suspect wipe genitals with a tissue, sheet, or item of clothing?

FF. Was there any post-assault contact with the suspect?

Additional considerations:

1. Assist the victim in developing a safety plan if concerns exist, and encourage the victim to call police if the suspect violates any existing criminal or court orders or if the suspect contacts the victim in any way.
2. Provide an explanation of the status of the case.
3. Encourage the victim's continued support in the investigation, apprising the victim of future investigative and prosecutorial activities that will require multiple contacts.
4. Advise the victim that others may want to interview her or him about the assault and that she or he has the right to decline or refuse.
5. Advise the victim to obtain clear identification of each individual contacting her or him regarding the assault.
6. Reaffirm information on and continued use of victim services.
7. Review contact information for both the victim and investigator.

Guideline 14
Pretext Telephone Call

Law enforcement should be familiar with the use of pretext telephone calls as an investigative tool.

A pretext telephone call is a recorded telephone call between the victim and the suspect. The purpose is to elicit incriminating statements from the suspect. A suspect will frequently talk to the sexual assault victim about the incident if he or she believes the victim is alone and no one is listening. This is a particularly valuable investigative tool in cases where the suspect and victim are acquainted.

Prior to Initiating a Pretext Telephone Call

At the conclusion of the follow-up interview and depending upon the details of the case, the investigating officer should:

1. Evaluate whether a pretext phone call is appropriate.
2. Take into consideration the victim's emotional and physical state. If the victim desires, a victim advocate/counselor should be present whenever possible to offer support.
3. Obtain the proper recording equipment and decide where and how the call will take place. Keep in mind that most individuals have caller ID.
4. Develop introductory themes the victim will use as lead-ins for specific questions posed to the suspect.
5. Instruct the victim to ask specific questions about the force used and acts committed.
6. Prepare the victim on how to respond to possible questions/responses from the suspect.

Guideline 15
Witness Considerations

Law enforcement should be familiar with witness considerations.

Factors to Consider When Conducting Witness Interviews

When conducting witness interviews, the investigating officer should:

1. Determine the following:
   - A. Appropriate sequence for witness interviews
   - B. Source of each witness's knowledge of the assault
   - C. Witness's relationship to the victim and/or suspect
   - D. Developmental/functional level of the witness
   - E. Motivation of the witness
2. Separate witnesses to prevent contamination of statements.
3. Fully identify witnesses and obtain multiple contact locations and numbers, including detailed family information.
4. Be aware of cultural differences.

5. Inform the witnesses about what to expect during the investigation.
6. Be aware of the potential for a variety of emotional and behavioral responses during the interview.
7. Advise the witnesses of the potential for further contact with the officer.

Guideline 16
Investigative Techniques

Law enforcement should be familiar with the proper investigative techniques and available resources.

Further Investigative Activities

After the follow-up interviews, the officer should:

1. Conduct a thorough records check on the victim and witnesses, including but not limited to:
   - A. Criminal history.
   - B. Prior law enforcement contacts.
   - C. Law enforcement and public data bases.
   - D. Other Internet data bases.
2. Learn all relevant information to assess the facts, circumstances, and the personality of the suspect, such as the following:
   - A. Criminal history, prior convictions, and reports of uncharged acts
   - B. Information from other officers who know or who have previously investigated the suspect
   - C. Probation records, parole status, and any psychiatric treatment reports
   - D. Any information from/about family members, friends, neighbors, et cetera
3. Submit a request to the crime laboratory to process evidence such as DNA, biology, trace, or toxicology.
4. Obtain any and all records to substantiate or refute the victim's and the suspect's accounts of the events, for example:
   - A. Attendance records
   - B. Logs
   - C. Motel receipts
   - D. Payroll records
   - E. Videotapes
   - F. Taxi cab records

Check with the Department of Justice, Child Protection Program to determine if suspect has any other current or past investigations.

See: form number BCIA-4084 – page 56

Guideline 17

Interview and Interrogation Techniques

Law enforcement should be familiar with interview and interrogation techniques and all applicable laws.

Prior to Contacting the Suspect

Prior to contacting the suspect, the investigating officer should:

1. Determine the suspect's age and level of criminal sophistication.
2. Be cognizant of the possible defenses to the crime.
3. Determine whether the suspect is likely to deny any contact with the victim or claim that the victim consented.
4. Did the suspect have access to the victim and/or crime scene (particularly when or where the offense took place)?
5. Determine the suspect's awareness of the investigation.
6. Determine if parallel investigations are ongoing and coordinate with those agencies, for example: Child Protective Services and Adult Protective Services.
7. Choose an appropriate time and place for the interview. This has an impact on whether or not:
   - A. The suspect feels free to leave.
   - B. The suspect feels more versus less threatened.
   - C. Miranda admonishments must be given to the suspect.
8. Become familiar with all relevant background information on the suspect. Assess the facts, circumstances, and personality of the suspect through the following:
   - A. Criminal history, prior convictions, and reports of uncharged acts
   - B. Information from other officers who know or who have previously investigated the suspect
   - C. Probation record, parole status, and any psychiatric treatment reports
   - D. Any information from/about family members, friends, neighbors
   - E. Previous residences (possible prior offenses in other jurisdictions)
   - F. Previous relationships (ex-spouse or intimate partner)
   - G. Relevant medical records, if available
9. Determine if a forensic sexual assault examination should be conducted on the suspect.
10. A search warrant may be needed to collect any evidence from the body of the suspect or clothing.

11. If the suspect voluntarily consents to such evidence collection procedures, provide documentation of this in the police report.
12. Officers should be trained to collect buccal swabs (oral reference samples) from the suspect for DNA profiling.
13. Evaluate the need for a search warrant on the suspect's home, office and/or vehicle. Depending on the case, requests may include but are not limited to the following items:
    A. Drugs
    B. Evidence of deviant sexual behavior
    C. Reference blood, buccal swabs, head and pubic hair
    D. Physical evidence (hairs, fibers, plant material)
    E. Telephone, pager/cell phone, and other electronic devices and their records
    F. Computer hardware, software, imaging equipment, and computer-generated data/files/images including internet history (Consult with computer forensic examiners)
    G. Dental impressions/castings/photographs
    H. Evidence removed from the scene
    I. Any items belonging to the victim
    J. Suspect clothing described from crime report
    K. Any other item to help corroborate the facts of the case
14. Arrange for equipment to record the interview. Ensure the equipment is functioning properly.
15. Determine the best person to conduct the interview (male versus female or combination).
16. Determine best interview techniques.
17. Be familiar with the typology of rapists and the existence of sexual paraphilias.

See: Appendix 9: Sexual Paraphilias (Sexual Deviations), page 81

18. Interview multiple suspects separately. (Consider placing suspects alone together in a recorded environment as an investigative tool.)

Contacting the Suspect

The investigating officer(s) should follow department procedures on identifying the suspect, conducting the suspect interview, and collecting evidence from the suspect. Additionally, the officer should:

1. Give Miranda or Beheler admonishments as appropriate during the course of the interview.
2. Be familiar with appropriate interrogation techniques.

3. Begin the interrogation as an interview.
4. Allow the suspect to offer information.
5. Encourage the suspect to relate the incident in a narrative format.
6. Consider obtaining an uninterrupted oral or written statement for statement analysis.
7. Be cognizant of the fact offenders may manifest a blend of characteristics associated with various personality disorders, or they may exhibit none of the characteristics at all. Be prepared to change tactics during the course of the interview based on information revealed.

See: Appendix 6: Criminal Personality Disorders and the Rapist, page 65

8. Determine the suspect's state of mind before, during, and after the event.
9. Seek information about the suspect's thought processes and emotions.
10. Monitor and note the demeanor of the suspect throughout the interview.
11. Consider preparing a photo display including the victim to counter consensual acquaintance defense in stranger sexual assault cases.
12. Consider requesting the suspect to submit to a polygraph or voice stress analysis if appropriate.
13. If the suspect confesses, consider having the suspect write an apology letter.
14. Attempt to corroborate or refute statements the suspect makes by evaluating the following:
    A. Statements by the victim
    B. Statements by the witnesses
    C. Suspect explanation of presence of physical evidence
    D. Prior criminal history
    E. Prior complaints by victims/witnesses
    F. Suspect alibi
    G. Suspect relationship with the victim
15. Evaluate the need for a live or photographic lineup.

Guideline 18
Forensic Examination

Law enforcement should be familiar with the protocols associated with suspect sexual assault forensic examination.

Sexual Assault Suspect Forensic Examination

Protocols and forms have been developed to provide recommended methods for documenting all injuries observed and collecting all biological samples from a sexual assault suspect.

The investigating officer should determine if a sexual assault forensic examination should be conducted on the suspect. This may depend upon:

1. Type of sexual assault involved.
2. Time-lapse between crime and contact with the suspect.
3. Injuries such as lacerations, bruises, and bite marks may be visible for a longer period and identifying characteristics may be lasting.
4. Amount of force used (possible injuries to the suspect)

   For suspect medical forms, see: http://www.cmtc.tv/forensic.asp for Form 950 and instructions.

The investigating officer should be familiar with the following:

1. If the suspect consents to the examination, the investigator should clearly document that the suspect was advised of the right to decline any part of the examination.
2. If exigent circumstances can be articulated and destruction of evidence is imminent, a search warrant may not be needed even if consent is refused.
3. A search may be conducted of the suspect's body if done incident to an arrest.
4. The forensic examiner should collect and document the suspect's pertinent medical history, document all visible injuries, and collect biological and trace evidence from the suspect's body.
5. The investigating officer should be aware that any questions asked during the forensic examination could be considered custodial interrogation and should consider if it is appropriate to give Miranda admonishment to the suspect prior to the examination.
6. If the suspect invokes his or her right to remain silent, the examiner should bypass the medical history portion of the examination and continue documenting any visible injury and collecting the appropriate specimens.
7. Both the examiner and attending officer should be prepared to document any spontaneous statements made by the suspect regardless of whether or not the suspect was in custody and whether or not the suspect was given Miranda admonishments.

Guideline 19
Report Documentation

Law enforcement should be familiar with the importance of preparing a well-documented, professional report.

Report Writing Considerations

Any officer who interviews a victim, witness or suspect, or who identifies evidence, or processes a crime scene, should write a report detailing actions taken. Effectively documenting a sexual assault case requires patience and attention to detail. When preparing the report, the officer should incorporate the following techniques:

1. Summarize all of the evidence uncovered during the course of the investigation, including findings and conclusions made by other members of the Sexual Assault Response Team.

2. If applicable, attach a copy of the victim's and the suspect's forensic examinations.
3. Recreate the reality of the sexual assault from the victim's perspective:
    A. Preserve the exact words used by the victim. Do not sanitize the language.
    B. Describe what the victim said she or he was thinking and feeling during the sexual assault.
    C. Be specific when describing the physical and emotional condition of the victim. Use behavioral descriptions. Indicate the victim was tearful and trembling rather than "upset." Indicate that the victim's shirt was torn and a shoe missing, rather than" the victim's clothing was disheveled."
    D. Document the entire context of force, threat, or fear.
    E. Document the victim's level of intoxication and/or drug use or altered level of consciousness.
    F. Use the language of non-consensual sex and create accurate "word pictures." When describing the crime, use appropriate terminology. For example, the officer should indicate that, "the suspect forced the victim to put her mouth on his penis" rather than "the victim kissed the suspect's penis."
4. Record witness statements:
    A. Describe the witnesses' observations of the victim's response to the sexual assault.
    B. Describe the witnesses' proximity and the ability to recall or observe the event.
    C. Attempt to corroborate the use of force, threat, or fear and any other facts previously obtained.
    D. Document even if a witness did not observe anything (negative results).
    E. Document the witnesses' abilities to recall or observe the events.
5. Document exactly what the suspect said and did.
    A. Did the suspect's alibi eliminate him or her as a suspect?
6. Detail the forensic analysis ordered and results received.
7. Document other evidence in the case.
8. Do not include any personal opinions or conclusions.
9. Present the complete case file, including forensic results, as soon as available, to the prosecuting attorney for review and work with the prosecutor's office to develop the case.

Guideline 20
CODIS

Law enforcement should be familiar with additional investigative steps required for cold hit or Combined DNA Index System (CODIS) sexual assault cases.

Combined DNA Index System (CODIS) Investigations

The investigating officer should take the following investigative steps when assigned to a cold hit investigation:

1. Order crime reports, communication tapes/transcripts, crime scene photos, and medical photos.
2. Locate original investigative files such as notes, photos, and crime scene logs.
3. Identify any statute of limitation issues.
4. Locate suspect and determine custody status. If out of custody, conduct threat assessment.
5. Locate victim(s) and witnesses.
6. Verify what evidence exists. Where is it and what analysis has been completed?
7. Review reports to determine if any other comparable evidence exists and request analysis.
8. Complete suspect criminal history and identify other crimes the suspect may have committed.
9. Prepare a search warrant for the suspect's biological and trace reference samples.
10. Determine the possibility of a search warrant uncovering evidence of the crime from the suspect's home, office, or vehicle.
11. Determine if the interview should be conducted pre- or post-arrest.
12. Interview the victim to determine her or his willingness to prosecute.
13. If the suspect is in custody, identify location and arrange for a visit (prison request letter).
14. Interview the suspect regarding the crime being investigated and/or any other crimes being cognizant of Miranda and Beheler admonitions.
15. Obtain reference samples and book into evidence.
16. Request DNA confirmation from serology criminalists.
17. Complete follow-up report detailing the status of the investigation.

Guideline 21
Presenting The Case

Law enforcement should understand the procedures for presenting a sexual assault case to the prosecuting attorney's office for review and filing.

Conducting a sexual assault investigation does not end upon referring the case to the prosecutor. The officer/investigator should be prepared to:

1. Answer questions about the details of the case from the prosecutor.
2. Coordinate a victim interview with the prosecutor and provide transportation if needed.
3. Understand the prosecutorial responsibility regarding discovery issues.
4. Respond to follow-up requests, as appropriate.

Guideline 22
Courtroom Testimony

Law enforcement should understand the dynamics associated with courtroom testimony.

Prior to testifying, the officer/investigator should:

1. Request a meeting with the prosecutor to determine the scope of the testimony.
2. Obtain copies of all of the pertinent reports and related documents, review them, and have them available during testimony.

Guideline 23
Supervisor's Role

Law enforcement should be familiar with the role of the supervisor in handling sexual assault cases.

Role of the Supervisor

Sexual assault investigations are similar to homicide investigations. Ideally, managers and supervisors recognize this dynamic and strive to support the investigators with resources, being mindful of fatigue, overwork, and stress, prevalent in all high-profile investigations. Managers and supervisors should:

1. Demonstrate a detailed understanding of victim issues and the dynamics of sexual assault investigations.
2. Understand these are complex, time-demanding cases often competing for limited departmental resources.
3. Respond to assist officers investigating sexual assaults, if appropriate.
4. Clarify expectations of officers and investigators.
5. Assist in locating resources to assist officers in effectively investigating sexual assaults.
6. Be supportive of the sexual assault investigators' need for ongoing, current training to enhance their skills in the evolving technologies and best practices.

7. Facilitate effective information sharing for present and future investigators who may work on the same case (for example, cold case investigations). These factors will allow investigators to work from the same foundation:
    A. What they know (facts)
    B. What they think they know (theories or conjectures)
    C. What they would like to know (key issues requiring additional information/data)
8. Review reports to ensure they are thoroughly documented.
9. Encourage problem-solving partnerships to enhance cooperation between the department and community organizations, such as rape crisis centers and forensic examination programs, using a victim-centered approach.
10. Include victim services information regularly at roll call.
11. Work to increase interagency communication between law enforcement and prosecutors.
12. Recognize and reward officers for rendering effective victim services.
13. Monitor investigators for personal and professional impact and provide appropriate referrals.

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Appendix 1

Statutory Laws Pertaining to Sexual Assault

Part A: Sate and Federal Laws

California Penal Codes

Rape:

261(a) (1)	Victim incapable of consent due to mental, developmental, or physical disability
261(a) (2)	By force, violence, duress, menace, or fear of injury
261(a) (3)	By intoxicant
261(a) (4)	Victim unconscious of nature of act
261(a) (5)	By pretense of being victim's spouse
261(a) (6)	By threat of future retaliation
261(a) (7)	By threat of public official authority
262	Spousal rape

Unlawful Sexual Intercourse:

261.5	Victim under 18 years old

Rape or Penetration in Concert:

264.1	Rape by force in concert
264.1	Penetration by foreign object in concert

Sodomy:

286(b) (1)	Victim under 18 years old
286(b) (2)	Victim under 16, defendant over 21 years old
286(c) (1)	Victim under 14, defendant more than 10 years older
286(c) (2)	By force, violence, duress, menace
286(c) (3)	By threat of future retaliation
286(d)	By force, in concert
286(d)	By threat of future retaliation, in concert
286(e)	In prison or jail
286(f)	Victim unconscious of nature of act
286(g)	Victim incapable of consent due to mental, developmental, or physical disability

286(h)	Victim incapable of consent due to mental, developmental, or physical disability, victim and defendant in state hospital
286(i)	By intoxicant
286(j)	By pretense of being victim's spouse
286(k)	By threat of public official authority

Oral Copulation:

288a (b) (1)	Victim under 18
288a (b) (2)	Victim under 16, defendant over 21 years old
288a(c)	Victim under 14, defendant more than 10 years older
288a(c)	By force, violence, duress, menace
288a(c)	By threat of future retaliation
288a (d) (1)	By force, violence, duress, menace, in concert
288a (d) (2)	By threat of future retaliation, in concert
288a (d) (3)	Victim incapable of consent due to mental, developmental, or physical disability, in concert
288a (e)	In prison or jail
288a (f)	Victim unconscious of nature of act
288a (g)	Victim incapable of consent due to mental, developmental, or physical disability
288a (h)	Victim incapable of consent due to mental, developmental, or physical disability, victim and defendant in state hospital
288a (i)	By intoxicant
288a (j)	By pretense of being victim's spouse
288a (k)	By threat of public official authority

Penetration by Foreign Object:

289(a) (1)	By force, violence, duress, menace
289(a) (2)	By threat of future retaliation
289(b)	Victim incapable of consent due to mental, developmental, or physical disability
289(c)	Victim incapable of consent due to mental, developmental, or physical disability, victim and defendant in state hospital
289(d)	Victim unconscious of nature of act
289(e)	By intoxicant
289(f)	By pretense of being victim's spouse
289(g)	By threat of public official authority

289(h)	Victim under 18 years old
289(i)	Victim under 16, defendant over 21 years old
289(j)	Victim under 14, defendant at least 10 years older

Sexual Battery:

243.4(a)	Victim unlawfully restrained
243.4(b)	Victim institutionalized
243.4(c)	Victim unlawfully restrained, made to masturbate, or touch defendant/third person
243.4(d)	No restraint

Assault with Intent to Commit Sex Crime:

220	Intent to commit §§203, 261, 262, 264, 264.1, 286, 288a, 288, or 289
220(b)	PC §220 in the commission of a residential burglary (effective as of Sept. 20, 2006 at 3 p.m.)

Related Definitions:

243.4(d) (2)	Sexual battery definitions
243.4(e)	Sexual battery definitions
243.4(f)	Sexual battery definitions
261.6	Consent defined
261.7	Request for condom not consent
263	Penetration defined

Related Crimes:

136	Intimidation of witnesses
203	Mayhem
205	Aggravated mayhem
206	Torture
207/208(d)/209	Kidnapping for sexual purposes
236	False imprisonment
236.1	Human trafficking
266a	Abduction or procurement by fraudulent inducement for prostitution
266b	Abduction to live in illicit relationship
266c	Unlawful sexual activity; consent procured by fraud
266e	Purchasing person for purposes of prostitution

266f	Sale of person for immoral purpose
266h	Pimping
266i	Pandering
273.4	Female genital mutilation
314	Indecent exposure
646.9	Stalking
653f (b)	Solicitation to commit sexual assault

Enhancements for Sex Crimes

667(a)	5 years for prior serious and current serious felony
667(a) (3)	1 year for felony conviction of willful harm or injury to a child, involving female genital mutilation (PC §273.4)
667.5(a)	3 years for prior prison term and current violent felony
667.5(b)	1 year for prior prison term
667.51	5 years for prior specified sex crimes
667.6(a)	5 years for prior specified sex crimes
667.6(b)	10 years for prior specified sex crimes, 2 or more prior prison terms
667.61	"One Strike" for specified sex crimes committed under certain circumstances
667.71	Life for habitual sex offender
667.72	25 years for habitual child molest, no parole until minimum 20 years incarcerated
667.8	9 years for kidnap for purpose of sexual assault, 15 years if victim under age 14
667.9(a)	1 year for each serious crime committed against elderly, children under age 14, and persons who are blind, developmentally disabled, paraplegic, or quadriplegic
667.9(b)	2 years for each prior specified crime
667.10	2 years for per prior PC §289 violation against one 65+ years, under age 14, and/or blind, developmentally disabled, paraplegic, or quadriplegic
667.15(a)	1 year for exhibition of sexually explicit material (PC §311.11) prior to or during commission or attempted commission of PC §288
667.15(b)	2 years for exhibition of sexually explicit material (PC §311.11) prior to or during commission or attempted commission of PC §288.5
674	2 years for specified sex crimes by day care provider
1170.1(h)	Enhancements on forcible sex crimes imposed full term
12022.3(a)	3, 4, or 10 years for use of firearm or deadly weapon in specified sex crimes
12022.3(b)	1, 2, or 5 years if armed with firearm or deadly weapon

12022.53	10 years for specified felony crimes w/ use of firearm
12022.75	3 years for administration of controlled substance
12022.8	5 years for great bodily injury (GBI) in specified sex crimes
12022.85	3 years if defendant knowingly has AIDS during sex crime

Probation Denials

1203.065	No probation for certain sex crimes
1203.066	No probation unless certain circumstances re child victims of specified crimes

Related Laws re Sex Offenses

264.2	Notification of counseling center for victims of sexual assault
290	Registration of sex offenders
290	Registration re juvenile adjudication
291	Registration of out-of-state offenders while enrolled in CA education
290	Mandatory reporting of employment information to DOJ
290.2	Blood/saliva for sex offenders
290.4	Sex offender registration database
291	School employee/teacher arrest for sex offense: notice to school officials
293	Confidentiality/disclosure requirements of victim's identity
293.5	Identification of victim as Jane or John Doe
626.81	Entrance of sex offender into school or building grounds [effective 9/20/06]
637.4	Prohibition of polygraph/Computer Voice Stress Analysis (CVSA)
653c	Sexual abuser of elder or dependent adult must register with facility before entering grounds of day care or residential facility [effective 9/20/06]
679.04	Right to advocate or support person
680	Sexual assault victims' DNA Bill of Rights
784.7	Jurisdiction for more than one violation
800 - 803	Statute of limitations
868	Open v. closed courtroom
868.5	Victim's right for support person in court
868.7	Closure of courtroom by prosecutor
1048	Calendar priority
1102.6	Attendance of crime victims during court hearings

1112	Prohibition of psychiatric exam for witnesses
1202.1	AIDS test for sex offenders
1524.1	Victim request for defendant AIDS test
3003	Geographic placement for sex offender on parole
3005	Parole supervision of sex offenders
3053.6	Sex offender parolees; order prohibiting contact or communication with victim or victim's family [effective 1/1/07]
11160	Mandatory reporting
13823	Medical exams of victims; consent and collection of evidence

Welfare and Institutions Code

6600	Commitment as sexually violent predator (SVP) for prior juvenile adjudication
6601	No dismissal of SVP petition re unlawful custody/good faith mistake

Evidence Code

782	Procedure for admissibility of sexual conduct of complaining witness
1103(c)	Evidence of victim's sexual conduct with anyone other than defendant inadmissible to prove consent
1108	Evidence of another sexual offense by defendant
1370	Hearsay exception where infliction or threat of physical injury

Federal Laws

18 U.S.C. §2261A	Interstate stalking
22 U.S.C. §7101-7112	Trafficking Victims Protection Act

Note: Internet links for U.S. legal code are likely to change. Please use the above information to conduct a Web search for applicable law.

Part B: Case Law Relating to Sex Crimes

Definitions and Related Case Law

Great Bodily Injury Great bodily injury is defined as a "significant or substantial physical injury" under PC §12022.7. There is no requirement that the injuries be prolonged or permanent. Examples of great bodily injury in sex cases include:

1. Child with multiple contusions with swelling, discoloration, and pain.
   People v. Jaramillo (1979) 98 Cal.App.3d 830;
2. Victim with multiple bruises, abrasions, and injury to neck and vaginal area.
   People v. Escobar (1992) 3 Cal.4th 740;
3. Victim with severe bruising, swelling of the eye, and loss of consciousness.
   People v. Muniz (1989) 213 Cal.App.3d 1508;
4. Victim who was a virgin and suffered genital tearing and pain.
   People v. Williams (1981) 115 Cal.App.3d 446;
5. Victim becoming pregnant with later abortion as result of sexual assault.
   People v. Sargent (1978) 86 Cal.App.3d 148;
6. Victim contracting sexually transmitted disease (SDT).
   People v. Johnson (1986) 181 Cal.App.3d 1137.

Force Force refers to physical force that is substantially different from or greater than that necessary to accomplish the act.

1. People v. Bolander (1994) 23 Cal.App.4th 155. Force can be found in circumstances where the defendant physically manipulates the victim into performing or acquiescing to an act. The following are examples of force:
   - **A.** The defendant picked up the victim, carried her to another location and proceeded to fondle her. People v. Cicero (1984) 157 Cal.App.3d 465;
   - **B.** The defendant manipulated the victim's hand to fondle his genitals and pushed the victim's head during acts of oral copulation. People v. Pitmon (1985) 170 Cal. App.3d 38.

Duress Duress is defined as a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to (1) perform an act which otherwise would not have been performed, or (2) acquiesce in an act to which one otherwise would not have submitted (Pitmon). In determining if duress exists, the total circumstances, including the age of the victim and his or her relationship to the defendant, are factors to be considered (Pitmon).

Kidnapping / Asportation

There are two different types of kidnapping: (1) simple kidnap; and (2) aggravated kidnap (including kidnap for purpose of sex crimes). Each requires a different level of asportation (or movement).

1. **Simple kidnap** (PC §207) is a less stringent standard that requires movement for a substantial distance that is more than slight or trivial. People v. Daniels (1993) 18 Cal. App.4th 1046. Same standard for kidnapping a person under age of 14. People v. Martinez (1999) 20 Cal.4th 225. [Note that Martinez also held that, while the movement need be substantial in character, the trier of fact may consider more than actual distance.]
2. **Aggravated kidnap** requires both conditions to be satisfied to find asportation:
   - 2.1.1 The movement must be for a substantial distance and not merely incidental to the commission of the sex crime. This element depends on the scope and nature of the movement. Actual distance is a factor to be considered but is not conclusive; and,
   - 2.1.2 The movement must substantially increase the risk of harm to the victim. This element includes consideration of such factors as the decreased likelihood of detection, the danger inherent in the victim's foreseeable attempts to escape, and the attacker's enhanced opportunity to commit additional crimes.
3. **People v. Dominguez** (2006) 39 Cal.4th 1141. Movement of victim by defendant 25 feet away and 10 to 12 feet below the level of the road was sufficient evidence of asportation to support conviction of aggravated kidnapping for rape, even though the victim was not taken to an enclosed place.

   The court noted that while measured distance is one factor to consider in determining the asportation requirement, each case must be considered in the totality of its circumstances.
4. **People v. Aguilar** (2d Dist 2004) 120 Cal.App.4th 1044. Kidnapping to commit rape requires (1) defendant to move the victim and the movement must not be incidental to the rape, and (2) the movement must increase the risk of harm to the victim over and above that necessarily present in the rape. Citing **People v. Shadden** (2001) 93 Cal.App.4th 164 and People v. Rayford (1994) 9 Cal.4th 1. **People v. Rayford** (1994) 9 Cal. 4th 1.

See: PC §667.61 subdivisions (a), (d)(2)

Case Law Related to Rape

1. **People v. Keovilayphone** (3d Dist. 2005) 132 Cal.App.4th 491. Rape in concert is a general intent crime. To be found guilty of rape in concert, a defendant must act voluntarily with another person and commit the crime of rape by force or violence against the will of the victim. A general intent crime only requires the purpose or willingness to do an act or omission (People v. Johnson (1998) 67 Cal.App.4th 67, 73).

2. **People v. Griffin** (2004) 33 Cal.4th 1015. The special definition of force used in PC §288 (b)(1), forcible lewd acts on a child, does not apply to PC §261 (a)(2), forcible rape. The use of the term force in the rape statute was not intended to have any specialized legal definition different from common usage of the term.
3. **People v. Linwood** (4th Dist. 2003) 105 Cal.App.4th 59. Statutory offense of rape of intoxicated person, requiring in part that defendant knew or "reasonably should have known" of victim's intoxication, is not unconstitutionally vague in violation of due process.
4. **In re John Z.** (2003) 29 Cal.4th 756; **People v. Roundtree** (1st Dist. 1999) 77 Cal.App.4th 846. Forcible rape, PC §261 (a)(2), can occur during consensual intercourse if the victim withdraws the consent and the defendant forcibly continues despite the withdrawal of consent.
5. **People v. Quintana** (1st Dist. 2001) 89 Cal.App.4th 1362. The degree of penetration that constitutes rape, PC §263, which does not require vaginal penetration, is the same as that required for forcible sexual penetration, PC §289.

   This may include contact with victim's hymen, clitoris, and the other genitalia inside the exterior of the labia majora.

Case Law Related to Consent

1. People v. Darcy (6th Dist. 2002) 102 Cal.App.4th 21. A defendant's belief that a victim did or would have consented to intercourse if conscious or any alleged advanced consent is not a defense to rape of an unconscious person.
2. People v. Giardino (4th Dist. 2000) 82 Cal.App.4th 454. Actual consent is irrelevant in a prosecution for rape by intoxication because the victim is unable to give legal consent due to lack of capacity, intoxication. It is not necessary to instruct the jury on actual consent. An honest and reasonable, but mistaken, belief that the victim consented to sexual intercourse is a defense to rape by intoxication.

Case Law Related to Other Sexual Offenses

1. In re Shannon T. (3d Dist. 2006) 50 Cal.Rptr.3d 564. Touching an intimate body part for the purpose of insulting, humiliating, or intimidating the victim is sexual abuse and a violation of PC §243.4 (e), sexual battery.
2. People v. Ribera (5th Dist. 2005) 133 Cal.App.4th 81. Sodomy, PC §286, does not require skin-to-skin contact between the victim and defendant. Defendant violated PC §286 by penetrating victim's anus through her underwear with his penis.
3. People v. Chavez (3d Dist. 2000) 84 Cal.App.4th 25. Sexual battery is a specific intent crime that consists of touching an intimate part of another against their will for the purpose of sexual arousal, gratification, or abuse.
4. People v. Wilcox (2d Dist. 1986) 177 Cal.App.3d 715. A finger is a "foreign object" for purposes of PC §289, forcible acts of sexual penetration.

Sex Offenders

1. People v. Hofsheier (2006) 37 Cal.4th 1185. It is a violation of equal protection to require mandatory lifetime registration for consensual oral copulation with a minor, PC §288a (b)(1), when registration is not required for unlawful sexual intercourse, PC §261.5. A trial court has discretion to order lifetime registration to any offender if the court finds that "the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification," pursuant to PC §290 (a)(2)(E).
2. In re Derrick B. (2006) 39 Cal.4th 535. Sexual battery is not a registerable offense for juveniles pursuant to PC §290, it is only applicable to adults.
3. People v. Chan (2d Dist. 2005) 128 Cal.App.4th 408; People v. Barker (2004) 34 Cal.4th 345. Forgetting to register and forgetting one's exact address when registering is not a defense to the mandatory registration requirement.
4. People v. Vincelli (3d Dist. 2005) 132 Cal.App.4th 646. Using two names or an alias is a violation of the registration requirement. Statute requiring sex offender to register when he or she "changes his or her name" is not unconstitutionally vague.
5. People v. Britt (2004) 32 Cal.4th 944. If a sex offender violates the registration requirement by moving from one county to another without registering in either county, the offenses should be joined in a single proceeding in either county and the two offenses cannot be separately sentenced if they are part of one continuous transaction.
6. In re Alva (2004) 33 Cal.4th 254. Statutory requirement of mere registration by one convicted of a sex-related crime is not a form of punishment and cannot be terminated by a court as cruel and unusual punishment.
7. People v. Annin (1st Dist. 2004) 117 Cal.App.4th 591. Pursuant to PC §290 (f)(1), a sex offender has a duty to notify police of a change of address when the offender moves. If the offender does not have a new address, he/she can comply with the statute by notifying of a new "location," a place where the registrant who has no address can be found.
8. People v. Garcia (2001) 25 Cal.4th 744. In order to willfully violate PC §290, the requirement to register as a sex offender, the defendant must have actual knowledge of the requirement to register.
9. People v. Horn (4th Dist. 1998) 68 Cal.App.4th 408. A defendant must register all residences in which he resides. If a defendant has a second residence, he must also register that address.
10. People v. McClellan (1993) 6 Cal.4th 367. The duty to register as a sex offender cannot be avoided through a plea agreement or judicial discretion.

Evidence

1. Davis v. Washington (2006) 126 S.Ct. 2266. Statements are not testimonial if the primary purpose of an interrogation is to respond to an on-going emergency.
2. Crawford v. Washington (2004) 541.U.S.Ct. 36. Testimonial hearsay from an unavailable declarant violates the Sixth Amendment right to confrontation unless there is a prior opportunity for cross-examination.
3. People v. Ramirez (1st Dist. 2006) 50 Cal.Rptr.3d 110. Statements rape victim made several hours after the rape should not have been admitted under spontaneous declaration exception. Victim had time and ability to deliberate her statements.
4. People v. Pierce (2d Dist. 2002) 104 Cal.App.4th 893. PC §220, assault with intent to commit rape, is a "sexual offense" under Evidence Code (EC) §1108, which permits the trier of fact to consider defendant's prior sex offenses as propensity evidence. Even though the prior sex offense was a 23-year old rape conviction, the court found the relevance of the evidence outweighed its remoteness.
5. People v. Branch (1st Dist. 2001) 91 Cal.App.4th 274. A 30-year old prior sexual offense was admissible pursuant to EC §1101 and §1108. No specific time limits have been established for determining when an uncharged offense is so remote as to be inadmissible. Significant similarities between the prior and the charged offenses may balance out remoteness.
6. People v. Falsetta (2000) 21 Cal.4th 903, 917. In balancing admissibility of prior sex offenses, a court must consider factors such as the "nature, relevance, and possible remoteness, the degree of certainty of its commission and the likelihood of confusing, misleading, or distracting the jurors from the main inquiry, its similarity to the charged offense, its likely prejudicial impact on the jurors, the burden on the defendant in defending against the uncharged offense, and the availability of less prejudicial alternatives to its outright admission."
7. People v. Poplar (3d Dist. 1999) 70 Cal.App.4th 1129. Defendant's past acts of domestic violence were admissible in a rape prosecution pursuant to EC §1109. The court held that rape is a higher level of domestic violence and that PC §13700, which defines domestic violence, encompasses the definition of rape.
8. People v. Raley (1992) 2 Cal.4th 870. A rape victim's statements hours after the attack were admitted under the spontaneous declaration exception. The victim's physical condition inhibited deliberation; she had suffered traumatic injuries, was near death, and had been unconscious.
9. People v. Bledsoe (1984) 35 Cal.3d 236. Expert testimony that a complaining witness suffers from rape trauma syndrome is not admissible to prove that the witness was raped.

Sentencing

1. People v. Fuller (2d Dist. 2006) 135 Cal.App.4th 1336. A defendant was sentenced to only one term under the One Strike law, PC §667.61, when defendant raped a victim two times in her bedroom and then once in her living room within one hour. There was a close temporal and spatial proximity between the three offenses, meeting the definition of "single occasion" as defined by the California Supreme Court in People v. Jones (2001) 25 Cal.4th 98, 100-101, 107.
2. People v. Lopez (4th Dist. 2004) 119 Cal.App.4th 355. When a defendant is convicted under both the one strike law and habitual sexual offender law, he/she can be sentenced under both schemes and then the punishment under one of the schemes should be stayed pursuant to PC §654.
3. People v. Mancebo (2002) 27 Cal.4th 117. A trial court cannot use unpled allegations to impose one-strike sentences. To do so is a violation of pleading provisions in the one strike law and a violation of defendant's due process rights. In order for one strike penalties to apply, the specific provisions under PC §667.61 must be pled and proved.
4. People v. Jones (2001) 25 Cal.4th 98. Multiple sex offenses occur on a single occasion if there was a close temporal and spatial proximity between the offenses. "In the commission" of a sex offense means before, during, or after the technical completion of the felonious sex act and continuing so long as the defendant maintains control over the victim.
5. People v. Murphy (2001) 25 Cal.4th 136; People v. Acosta (2002) 29 Cal.4th 105. A defendant can be sentenced under both the three strikes law and the habitual sexual offender law or the three strikes law and the one strike law using the same prior sexual felonies.
6. People v. Tillman (1st Dist. 1999) 73 Cal.App.4th 771. Defendant's prior rape conviction could properly be used both to satisfy the element of the offense of failing to register as a sex offender, and as a "strike" which augmented defendant's sentence following his conviction for failing to register under the three strikes law.
7. People v. Murphy (2d Dist. 1998) 65 Cal.App.4th 35. The one strike law, PC §667.61, requires the trial court to impose one indeterminate life term per victim per occasion when the defendant has been convicted of committing violent sex offenses against different victims on different occasions.
8. People v. Senior (6th Dist. 1992) 3 Cal.App.4th 765. Multiple repeated sex crimes have not been regarded as a single course of conduct under PC §654, and it did not prohibit separate punishment for multiple acts of oral copulation.
9. People v. Kirk (1st Dist. 1990) 217 Cal.App.3d 1488. Sentence enhancements under PC §667.6 (c) can only be applied to a conviction charged under PC §289, forcible acts of sexual penetration, when the fact finder determines the penetration of the genital or anal opening was accomplished against the victim's will by coercive means.

10. People v. Johnson (1st Dist. 1986) 181 Cal.App.3d 1137. In a prosecution for kidnapping, rape, oral copulation, robbery, and false imprisonment, an enhancement for great bodily injury, PC §12022.8, is proper where there is substantial evidence defendant infected the victim with herpes.

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Appendix 2: Victim Considerations

Dealing with Special Needs Victims

Uncooperative, Agitated Victims

1. Maintain a calm demeanor even if the victim's affect escalates.
2. Determine why the victim is reporting the sexual assault and assess her or his willingness to continue to participate in the process.
3. Clearly explain the reporting process, specifically addressing issues such as not using information given in the report against the victim. This is especially important if the victim is uncooperative due to being a known sex worker.
4. Many victims are agitated due to feeling self-blame and are anticipating being blamed while reporting. Explain that sexual assault is not caused by engaging in high-risk behavior. Being a sex worker, drinking excessively, a teen sneaking out to "date" a much older man, going with a known drug dealer, gang member, or parolee to take drugs, dancing/drinking/passing out at a fraternity party, et cetera, does not make the victim responsible for the perpetrator's behavior.
5. Explain the need to obtain certain information and the reasons for asking detailed questions about the victim's history and behaviors. This will aid in decreasing defensiveness.
6. Allow time for the victim to begin to calm down. Ask basic, less challenging questions first.
7. If the victim is becoming increasingly agitated, try to discern if a substance, trauma, or other mental health issue (see below) is causing this. If there was alcohol or drug use, the interview may have to be postponed.
8. Allowing time for the victim to receive brief crisis counseling with the counselor/advocate, when appropriate, can help a victim calm down enough to proceed with the interview and examination.

Victims with Mental Illness/Psychiatric Symptoms

1. Focus on the victim as a complete person.
2. Be patient and allow enough time for the victim to communicate.
3. If the content of the victim's speech seems to be delusional, continue to respond without validating the delusions.
4. Do not laugh at or make fun of the delusional content, appear shocked, or try to dismiss or minimize the experience. Debating the reality of the delusions can increase agitation, defensiveness, and symptoms of trauma.
5. If the victim appears to be responding to internal stimuli/hallucinations, do not try to talk her or him out of it or say, "That is not real." The feelings are very real to them. These symptoms may be particularly pronounced after a recent sexual assault. A new trauma can exacerbate existing mental health symptoms.

6. Although some of the victim's thoughts or experiences are not based in reality, this does not mean an assault did not occur. Perpetrators target people with mental illness because they are often not believed when they report.
7. People with mental illness are not "out of reality" most of the time, only when symptoms are active. Having symptoms of mental illness is not the same thing as "making up stories" or "having a wild imagination." The delusions and hallucinations are symptoms of an illness. These symptoms do not make people with mental illness more prone to false reporting than the rest of the general population.
8. If the victim has a support person accompanying him or her, resist the temptation to address questions to the support person rather than the victim, or to speak about the victim as if he or she is not there.
9. Know the difference between a mental illness/psychiatric diagnosis and developmental disability. An adult with a mental illness has the life experience and IQ of any adult. Do not speak to refer to them "like a child" or speak to them as if they are children. Phrases like "mentally challenged", "slow", or "mentally impaired" do not accurately describe people with mental illness or developmental delays.

Victims with Disabilities

Victims with disabilities are a large group, which may include people with physical, communicative, neuromuscular, developmental, cognitive, visual, medical, learning, psychiatric, and other disabilities. This group is sexually assaulted at a rate two to ten times greater than the general population, however, despite the high risk, and reporting is often low. The majority of people with disabilities are sexually assaulted by someone they know, often a caregiver.

Law enforcement officers should be aware of the following factors:

1. Victims with disabilities are often not believed or not viewed as accurate historians.
2. They often live or spend time in controlled environments, such as day treatment programs, group homes, institutions, or continue to live with family as adults.
3. They may be over or under medicated.
4. They often have caretakers that perform personal hygiene duties such as bathing, toileting, and clothing.
5. They are often dependent on caretakers for medical needs, medication, transportation, or other necessities.
6. There are myths that no one would want them and they are not sexually attractive.
7. Some cannot physically get away or call for help.
8. They may lose privileges at a group home, institution, family home, or hospital if they tell about abuse.

9. They often receive no sex education or are seen as asexual which makes them more vulnerable to perpetrator tactics and misinformation.
10. They are taught to be compliant.
11. They are taught to hug others.
12. They are infantilized and not given independent choices.
13. They are confused because forced or coerced sexual contact may feel good.
14. They are not viewed as good witnesses.
15. There is a myth that they are often perpetrators, or always act out in inappropriate sexual ways.
16. Many see it as a compliment for a woman with a disability to date a non-disabled man.
17. Talk to the victim, not a support person or caregiver.
18. The victim is an adult. An officer should not call a child abuse center or child advocate to respond to a case involving an adult with a disability.
19. It is best to disallow a caregiver to be in the room during an interview. They might be the perpetrator, acquaintance of the perpetrator, or otherwise present a subtle or overt threat to the victim about telling the truth or naming the perpetrator.
20. Caregivers are often underpaid, lack training, and do not stay in these positions long term, therefore, there are few thorough background checks completed.
21. Often perpetrators seek out these positions to have contact with vulnerable individuals.
22. Co-workers may be afraid of losing their jobs if they report the conduct or might think, "No one would want to rape these people."
23. Be aware of accommodations that might aid communication, American Sign Language (ASL) interpreter, understanding (altering vocabulary used), or mobility (giving a victim with visual impairments information about the lay out of the room).
24. If a possible accommodation can be made, ask the victim's permission before "helping."
25. Most people (85%) with developmental delays are only mildly mentally retarded. Avoid talking down to them, or speaking to an adult like a child.
26. People with disabilities have the same right to confidentiality with the victim counselor/advocate as other victims. The information will not be shared with a caregiver, parents, social worker, guardians, et cetera.
27. The victim with a disability has the right to decide who is in the room during the forensic examination.

Deaf Survivors

1. The deaf community is often like a small town – many people know one another. This may mean that the victim might be concerned about confidentiality or privacy.
2. If the victim signs, always call for an ASL interpreter.
3. Do not use a partner, parent, friend, or the advocate/counselor as the ASL interpreter.
4. Make eye contact and speak to the victim directly, even if an ASL interpreter is present.
5. Use notes or lip reading until an interpreter is available, with the victim's approval, but be aware that not all deaf people read lips.
6. If communicating through lip reading, look at the person. Do not turn away mid-sentence, eat, or cover your mouth. There is no need to speak loudly or exaggerate annunciation.
7. Respect what is called "Deaf Culture." People in the deaf community do not see deafness as a disability. They have the right to refuse "treatments" for deafness such as cochlear implants. They maintain their own social circles and would rather receive services within the deaf community.
8. Isolation of deaf people within the hearing community may make reporting difficult.

Male Victims

1. Male victims experience the same types of trauma as female victims.
2. Most male victims are sexually assaulted by a male perpetrator.
3. Male victims may prefer to speak with a female officer, if available.
4. Male victims may hesitate to report or give full information about the crime due to feelings of loss of traditional masculinity and homophobia.
5. Sexual assault of men is a crime of power and control and is usually not about sexual orientation or attraction.
6. Do not assume that a male was sexually assaulted due to his sexual orientation, perceived or real.
7. Some men are targeted for sexual assault as a hate crime due to real or perceived sexual orientation, sexual behaviors, or gender identity.

Lesbian, Gay, Bisexual, and Transgender Victims

1. Be aware that sexual assault and intimate partner violence occur in the lesbian, gay, transgender, and bisexual community.
2. Some communities of color may use terms such as "two-spirit," "same-gender loving," or "men who sleep with men," as opposed to other terms. Echo the language used by the victim, if such labeling is necessary in the interview.
3. Avoid assuming heterosexuality. If a female victim refers to her "partner," do not say, "How long have you been with your boyfriend?"
4. Allow a partner or significant other to be in the room as a support person, under the same guidelines as would be used for a heterosexual couple.
5. Assumptions about "masculine" and "feminine" roles and gender identity are often misguided stereotypes that will not improve communication or trust with the victim. They do not provide accurate information about behaviors.
6. Victims of sexual assault/abuse in intimate relationships may be facing elements of control not experienced by heterosexual victims of intimate partner assault such as:
   - **A.** Being ridiculed about their sexual orientation, while the batterer maintains that he or she is not really gay or a lesbian.
   - **B.** Being threatened with being "outed" to family, friends, a boss, co-workers, a landlord, religious leaders, et cetera — an effective way of keeping people silent as homophobic views could mean extremely negative consequences (i.e., loss of relationships, loss of work/financial stability, loss of home, shame in the community, and so forth).
   - **C.** Having either consensual sex or acts of sexual assault, with people of the same sex, videotaped or otherwise threatened to be exposed.
   - **D.** The victim may have been told by the perpetrator, as part of the emotional and psychological abuse, that police would never believe him or her because of sexual orientation.

Victims Assaulted by a Spouse or Intimate Partner

1. Victims raped by their partner, lover, or spouse experience trauma just like other victims.
2. Domestic Violence (DV)/Intimate Partner Violence (IPV) usually includes some form of sexual violence.
3. Sexual assault victims in an intimate relationship with, sharing a child with, living with, or married to the perpetrator will often experience multiple sexual assaults throughout the relationship. They may describe these very calmly as they have become commonplace.
4. Many victims of DV/IPV will not use the term "rape" or even sexual assault. They may

describe a time when they were violently beaten, dragged into the bedroom, then say "then we had sex" or "I just gave in to sex to try to calm him down," and then continue to describe more physical, emotional, and verbal abuse. More examination will be needed to get information about the coercion and real threat of increased violence that made this a sexual assault, not consensual sex.

5. Many victims are sexually assaulted in front of their children or "give in to sex" they do not want because the perpetrator says that if they do not do it, they will just get one of their children to do it. Be aware that they may be sexually abusing the children as well.
6. Many victims of DV/IPV will be ashamed, especially of the sexually abusive part of the relationship and may leave information out while reporting. Perpetrators of sexual assault/abuse in relationships make it a point to force the victim to cross her or his own moral/ethical/physical codes for what is "right" or desirable to them sexually. Many details of the sexual assault can be discerned by talking about the "grooming" process used by the perpetrator to find out what the victim's "sexual bottom-line" is (what he or she will not do, thinks is disgusting, thinks is painful, et cetera). This can help the victim talk about the most embarrassing parts of the sexual assault/abuse throughout the relationship.

Elderly Victims

1. Elderly victims do not report sexual assault as often as other types of abuse (i.e., fiduciary, physical, verbal, medical neglect, and so forth).
2. When one type of abuse is reported, it is important to directly ask about sexual abuse.
3. Because sex, or anything related to it, is more taboo in older generations, even using the words might be very difficult. Give encouragement and time for the victim to communicate.
4. Elderly victims are often not believed, even by family members, due to being seen as no longer sexually attractive or active. Sexual assault of the elderly is typically about power and control.
5. Medical or psychological problems do not make it more likely that an elder will make a false report.
6. Elderly victims may be threatened with (or already fear) many things that keep them silent including:
   - **A.** Being dependent on a caregiver/family member for care, medication, basic assistance with housekeeping, and finances.
   - **B.** Potential loss of family support, living in their own home, or loss of independence.
   - **C.** Threat of being put in a nursing/convalescent home.
   - **D.** Fear of being seen as "crazy" or "losing one's mind" because of disbelief when abuse is reported.

E. Over or under medicating the elder to make them confused or very sleepy so they seem less mentally healthy or cannot report.

F. Caregivers may have very personal information about the elder and their family, do "private" things for them (toileting, bathing), or have access to finances which can be revealed to shame the elder.

G. The elder may believe it is important to protect a family member at all costs, or that it would be shameful to report a family member.

H. Fear that they will lose their place at a nursing home if they report staff.

I. Overt threats to say that they are "crazy" or diagnose them with dementia if they tell anyone.

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Appendix 3

Sexual Assault / Abuse Documentation Forms

Clothing Documentation – Addendum to Form 923

Obtain a complete history prior to evidence collection and documentation. Complete all blanks. If not applicable, write N/A. When specific evidence is not required, write, "deferred." Document accurately. Write clearly and neatly.

Procedure for wet clothing: Items must be dry to preserve evidence. If clothing is wet, place on a sheet of clean, unused, white paper and cover with another sheet of white paper. Gently fold each article of clothing and place in a labeled, sealed paper bag. Give to the officer. Advise that the clothing is wet.

See: Addendum Form, page 54

Facsimile Inquiry for Child Abuse Central Index Check (CACI)

Check with the Department of Justice, Child Protection Program to determine if suspect has any other current or past investigations.

See: CACI Form, page 56

Addendum to OES Form 923

Clothing Documentation

Obtain a complete history prior to evidence collection and documentation. Complete all blanks. If not applicable, write N/A. When specific evidence is not required, write, “deferred.” Document accurately. Write clearly and neatly:

Procedure for wet clothing: Items must be dry to preserve evidence. If clothing is wet, place on a sheet of clean, unused, white paper and cover with another sheet of white paper. Gently fold each article of clothing and place in a labeled, sealed paper bag. Give to the officer. Advise that the clothing is wet.

	No	Yes	Unsure
Patient arrived at hospital wearing clothing worn during the assault	☐	☐	☐
Patient arrived at hospital wearing clothing worn immediately after the assault	☐	☐	☐
Patient brought clothing worn during assault. Collected by forensic examiner.	☐	☐	☐
Clothing worn at the time of the assault collected by law enforcement prior to the arrival of the forensic examiner.	☐	☐	☐
Patient provides location of clothing worn at the time of the assault and/or additional evidence. Law enforcement is notified at _____ hours.	☐	☐	☐
Clothing collected by law enforcement.	☐	☐	☐

In cases involving non-acute exams where clothing, bedding, or other evidence has been identified and collected, a DNA reference sample must be collected from the patient.

Sample type: ☐ Buccal Swab ☐ Blood

Based on the patient’s history, note any areas that need to be evaluated by the Crime Lab and/or investigating officer for foreign material, i.e., blood, dry or moist secretions, and/or tears, stretched out material, and missing buttons.

Clothing Description

Describe clothing (with minimal handling), carefully, noting condition (clean, dirty, rips, tears, stretched out elastic, missing buttons, etc.) and any foreign material (grass, fiber, hair, twigs, soil, splinters, glass, blood, dry or moist secretions, etc.) Focus on clothes worn closest to the genitals or areas where the suspect's mouth made contact, (i.e., breasts/bra).

Bra

Shirt

Undershirt

Sweater

Jacket

Pants

Underwear

Socks

- ☐ One
- ☐ Two

Shoes

- ☐ One
- ☐ Two

Other

POST Guidelines on Adult/Adolescent Sexual Assault Investigation

FACSIMILE INQUIRY FOR CHILD ABUSE CENTRAL INDEX CHECK (CACI)

DEPARTMENT OF JUSTICE
CHILD PROTECTION PROGRAM
FACSIMILE NUMBERS (916) 227-5054
OR (916) 227-3253

ONLY FOR TEMPORARY PLACEMENTS OCCURRING
AFTER HOURS, HOLIDAYS & WEEKENDS * FAX (916)456-0351

FOR CHILD PROTECTION PROGRAM USE ONLY

ACTION	INITIALS	DATE & TIME	RESPONDED
RECEIVED BY:			
1st CALLBACK			
2nd CALLBACK			

PLEASE TYPE OR PRINT CLEARLY

1. AGENCY/INVESTIGATOR INFORMATION (ALL INFORMATION IS MANDATORY):

REQUESTER'S NAME AND TITLE:

AGENCY NAME (SOCIAL SERVICES & SHERIFF'S INCLUDE NAME OF COUNTY):

CACI SEARCH RESULTS (PLEASE INCLUDE TELEPHONE NUMBER FOR RESPONSE AND CIRCLE TYPE OF RESPONSE PREFERRED):

TELEPHONE: ( )_____ **FACSIMILE: ( )** _____

2. PURPOSE AND AUTHORIZATION FOR NAME CHECK (A purpose must be indicated - Use one form per purpose).

Please check one purpose in Section 2.

_____ **PLACEMENT OF CHILD IN EMERGENCY SITUATION** (DO NOT LIST MINORS) Per Penal Code Section 11170(c)

_____ **CARE-TAKER FOR WARD OF COURT OR DEPENDENT CHILD -** (DO NOT LIST MINORS) Per Penal Code Section 11170(b)(5)

_____ **GUARDIANSHIP** MUST INCLUDE FACE SHEET OF PETITION/NOTICE OF HEARING NAMING 'SUBJECT' AS POTENTIAL GUARDIAN - (DO NOT LIST MINORS) Per Penal Code Section 11170(b)(5)

_____ **INVESTIGATION OF CURRENT ALLEGATION OF CHILD ABUSE** Per Penal Code Section 11169

_____ **PEACE OFFICER BACKGROUND** Per Penal Code Section 11170 (b)(7)
(Include Applicants mailing address in the "Comments" field)

I am authorized to receive CACI information. I understand that I can not use or rely on any CACI information received as the basis for any decision; but rather, I must obtain the original investigation report from the reporting agency and will draw my own independent conclusions regarding the quality of evidence disclosed and its sufficiency for making a decision in compliance with the provisions of Penal Code Section 11170 (b)(A).
I understand that if this information is obtained for the temporary placement of a child, I am required by Penal Code Section 11170 (b)(6) and (c) to notify the person whose name was searched that she/he is a suspect in the Child Abuse Central Index.

After you PRINT form, circle phone or fax and provide signature.

Requester's Signature:_____
Name Check will not be processed without Requester's Signature

3. SUBJECT DESCRIPTION (complete as much information as possible):

	PERSONAL DESCRIPTION INFORMATION			DOJ USE ONLY RESULTS	DOJ USE ONLY RCN
1.	LAST	FIRST	MIDDLE	No Match	
	AKA and MAIDEN (If Applicable)	PRIOR COUNTIES OF RESIDENCE		Poss Match	
	DOB	SSN #	CDL #		
2.	LAST	FIRST	MIDDLE	No Match	
	AKA and MAIDEN (If Applicable)	PRIOR COUNTIES OF RESIDENCE		Poss Match	
	DOB	SSN #	CDL #		
3.	LAST	FIRST	MIDDLE	No Match	
	AKA and MAIDEN (If Applicable)	PRIOR COUNTIES OF RESIDENCE		Poss Match	
	DOB	SSN #	CDL #		
4.	LAST	FIRST	MIDDLE	No Match	
	AKA and MAIDEN (If Applicable)	PRIOR COUNTIES OF RESIDENCE		Poss Match	
	DOB	SSN #	CDL #		

COMMENTS:

PRINT FORM

CLEAR FORM

Appendix 4

Physical Evidence for Submission to Criminalistics Laboratory

Physical Evidence

These are general guidelines only; always check with your local Crime Lab.

Type of Evidence	Preferred Collection	Alternate Collection	Packaging	Storage
Bloodstains (wet)	Collect entire item.	Cut out suspected stain and prepare a control sample (next to stained area).	Always package in paper, cardboard boxes, or envelopes.	Items should be air-dried prior to storage. Store in freezer.
Bloodstains (dried)	Collect entire item.	Moisten a sterile swab with distilled water and rub evenly to distribute stain around swab tip.	Paper envelopes or cardboard boxes. Keep samples separate - uniquely identify swab.	Items should be air-dried prior to storage. Store in freezer.
Bloodstains (dried – flaky)	Collect entire item – protect stained area.	Scrape stain using clean razor or scalpel.	Use bindle to collect crusted bloodstains -paper envelopes.	Items should be air-dried prior to storage. Store in freezer.
Clothing	Collect entire item – note wet stains if present (use tape to mark).		Butcher paper wrap or use paper bags.	Items should be air-dried prior to storage. Store in freezer.
Bedding	Collect entire item – note wet stains (use tape to mark).		Butcher paper wrap or use paper bags.	Items should be air-dried prior to storage. Store in freezer.
Condoms	Collect entire item.		Paper envelope.	Items should be air-dried prior to storage. Store in freezer.
Fingernail scrapings	Sampled by SANE/SART personnel.	Use clean a plastic toothpick for each fingernail.	Separate right / left hand samples – paper bindle and envelope.	Store in freezer.
Urine (from person)	Victim to urinate in sterile container.		Plastic sterile container.	Store in refrigerator.
Urine (from scene)	Collect as much as possible.		Plastic sterile container.	Store in refrigerator.
Fecal matter	Collect as much as possible.		Plastic sterile container.	Store in freezer.
Cigarette butts (saliva)	Collect entire item – avoid ashes.		Paper envelope.	Store in freezer.
Bottles and cans (saliva)	Collect entire object.	Moisten sterile swab with distilled water and rub mouth area, follow with dry swab.	Paper envelope or cardboard boxes.	Swabs should be air-dried prior to storage. Store in freezer.
Partially eaten food items (saliva)	Collect entire object.	Moisten sterile swab with distilled water, rub partially eaten areas, and follow with dry swab.	Paper envelopes, bags, or cardboard boxes.	Swabs should be air-dried prior to storage. Store in freezer.
Bite marks on human skin (saliva)	Sampled by SANE/SART personnel.	Photograph with ABFO scale – and swab marks prior to casting.	Paper envelopes or cardboard boxes.	Swabs should be air-dried prior to storage. Store in freezer.
Trace evidence (glass, fibers, loose hairs, soil, etc.)	Collect using disposable forceps or gloved fingers or tape lifts.		Package in bindles – lifts should be placed on Mylar or plastic sheet.	Room temperature.

Physical Evidence (cont)

Type of Evidence	Preferred Collection	Alternate Collection	Packaging	Storage
Contact DNA (worn items – ball cap, mask, clothing, eyeglasses)	Collect entire object.		Paper envelopes, bags, or cardboard boxes.	Store in freezer.
Contact DNA (steering wheel, weapon handle)	Moisten sterile swab with distilled water and rub handled area, follow with 1 dry swab (i.e., grips of firearm).		Paper envelopes or cardboard boxes.	Swabs should be air-dried prior to storage. Store in freezer.
Ligatures	Collect entire item – do not untie or cut knots – cut away from knots and mark.		Paper bag or envelope.	Store in freezer.
Document evidence	Collect with forceps – consider indented writing, latent print processing, possible source of saliva (flaps), and questioned document examination.		Avoid marking evidence directly.	Room temperature.
Shoe prints/tire tracks	Photograph using L scale, tripod and level plane parallel to print/track – use oblique lighting to ensure capture of details – prior to casting or gel lifting.		Secure in a cardboard box.	Room temperature.
Firearms (Consult FA Unit)	Use clean, disposable gloves – unload prior to packaging. Consider swabbing gun grips.		Secure in a cardboard box. Treat swabs as above.	Room temperature.
Cartridge cases	Use clean, disposable gloves when handling – do not mark item directly.		Paper envelopes -Ziploc baggies (if no biological material associated with item).	Room temperature.

Reference Samples

These are general guidelines only; always check with your local Crime Lab.

Type of Evidence	Preferred Collection	Alternate Collection	Packaging	Storage
Buccal swabs (oral reference)	Collect from subject using 2-4 sterile swabs.		Paper envelopes.	Swabs should be air-dried prior to storage.
Blood	Medical personnel.		Paper envelopes.	Refrigerate.
Hairs (head, facial, body)	Sampled by SANE/SART personnel.	Use clean tweezers.	Paper bindle and envelope.	Room temperature.
Secondary reference samples - toothbrush, hairbrush, razor, any worn item of clothing	Clean, disposable gloves.		Always package in paper, cardboard boxes, or envelopes.	Items should be air-dried prior to storage. Store in freezer.

Collection reminders:

1. Avoid talking, coughing, or sneezing over evidence. Always use clean, disposable gloves and change in between sampling.
2. Consider additional protective equipment (masks, booties).
3. Handle evidence items as little as possible.
4. Consider using an alternate light source (ALS) or Wood's lamp to assist in location of biological stains.
5. Each individual stain should be collected and packaged separately.
6. Do not expose items to heat or sunlight.
7. Maintain chain of evidence.

Questions? Consult: Crime Lab / Medical Examiner / Coroner's Office.

References:

LAPD Criminalistics Laboratory Guidelines for Physical Evidence Collection (2000) Bureau of Forensic Services (BFS)/DOJ Physical Evidence Bulletin on Sexual Assault Investigation (2002)

What Every Law Enforcement Officer Should Know About DNA Evidence; NIJ/DOJ Pamphlet (1998)

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Appendix 5

Definitions of Anatomical Terms

Anus	Terminal opening of the alimentary canal, opening to the rectum, 4 cm in length, pain sensitive, surrounded by the sphincter muscles
Anal verge	The tissue overlying the subcutaneous external anal sphincter at the most distal portion of the anal canal and extending to the margin of the anal skin
Bart Olin's glands	Two oval glands lying one to each side of the lower part of the vagina at 4 and 8 o'clock positions, which secrete lubricating mucus of a few drops
Bump	Small rounded projections, which may indicate where a septate bridge once attached an area of attachment of vaginal rugae, or a chronic inflammatory change
Cervix	Narrow lower or outer end of the uterus, neck of the uterus
Cervical os	Opening of cervix
Cleft	V-shaped indentation, not extending to base of the hymen
Clitoris	Small erectile organ at the anterior or ventral part of the vulva, sole purpose is sexual stimulation, homologous to the penis
Fimbriated	Uneven edges with small projections of the hymen
Fossa navicularis	Concave area immediately below the hymen, extending outward to the posterior fourchette
Gluteal cleft	A naturally occurring groove between the buttocks
Hymen	Fine membranous tissue that partially or rarely completely covers the vaginal orifice and separates the external genitalia from the vagina, located at the juncture of the vestibular floor and vaginal canal (terms such as intact, and intact and virginal are not used today) Hymenal shapes: Annular: ring shape 360 degrees Crescentric: Half moon, tissue extending from 1 to 11 o'clock Cribriform: multiple small openings Frimbriated: ruffled, redundant uneven tissue
Imperforate hymen	A condition in which the membrane has no opening and completely occludes the vagina
Labia majora	Outer skin folds to the vagina, covered with pubic hair

Labia minora	Inner skin folds to the vagina
Midline sparing	White a vascular linear area posterior to the hymen at 6 o'clock
Mons pubis	Rounded eminence of fatty tissue on the pubic symphysis
Pectinate line	Anal papilla and columns interdigitate with anal verge tissue (where the squamous cells meet columar cells)
Penis	External male organ consisting of three parallel cylinders of erectile tissue that run the length of the penis, which consists of the glans, prepuce, corona, shaft, and frenulum (the average length of a non-erect penis is 8.5 to 10.5 cm and the length of an erect penis average is 16 to 19 cm with a diameter of 3.5 cm)
Perianal skin fold (rugae)	Wrinkles or folds of the anal verge skin, radiating from the anus, which are created by the contraction of the external sphincter
Perineal body	Mass of tissue and fascia that separates the lower end of the vagina from the rectum
Perineum	Region bounded by the vulva in front, by the buttocks behind, and laterally by the medial side of the thighs.
Periurethral tissue	The immediate 360 degree area around the urethra, not including the urethral meatus
Periurethral vestibular bands	Bands lateral to the urethra, connected to the vestibule wall, support bands
Posterior fourchette	Area below the fossa navicularis, the point of fusion to the posterior labia minora
Prepuce or foreskin	Fold of skin that covers the glans of the penis, circumcision is the surgical removal of this skin
Prostate	Produces approximately 30% of the seminal fluid (the remaining 70% is produced by the seminal vesicles), located directly below the bladder and surrounding the urethra
Rectal ampulla	The dilated portion of the rectum just proximal to the anal canal
Rectum	Terminal part of the intestine from the sigmoid flexure to the anus not sensitive to pain
Rolled	Tissue folded over on itself either inwardly or outwardly of the hymen

Scalloped	Rounded series of half circle tissue of the hymen
Scrotum	Thin loose sac of skin under the penis, which contains the testicles
Septated	Band of tissue crossing he vaginal orifice of the hymen
Skene's glands	Drain into the urethra and near the urethral opening, located on the upper wall of the vagina around the lower end of the urethra
Spermatozoa	Mature male sperm cells
Tag	Extra skin that usually develops after trauma or laceration
Testes	The male reproductive organs, they have two functions: production of hormone and production of sperm
Thickened	Fatter and less elastic of the hymen
Transected	Torn, cut, or divided area of the hymen
Urethral meatus	Orifice for the urethra
Vagina	Tubular structure or canal extending from the hymen to the cervix
Vas deferens	The 16-inch tube that connects the epididymis to the urethra, this tube is cut and sutured off during a vasectomy
Venous pooling	Dilatation and sometimes bulging of the veins around the anus (also called venous engorgement)
Vestibule	Space between the labia minora, into which the urethra and vagina open
Vulva	Region of the external genital organs of the female

Reference:

Olshaker, J., Jackson, C., Smock, W., (2006). Forensic Emergency Medicine, Lippincott Williams and Wilkins p. 119-222.

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Appendix 6

Criminal Personality Disorders and the Rapist

In addition to the Rapist Typology, various rapists have unique criminal personality disorders. To further understand how and why these rapists commit the crimes they do, you must first identify common characteristics and traits of these criminals, which in turn manifest themselves during the commission of their crimes. Criminal personality disorders along with the Rapist Typology can tell you what behavior you should be looking for when you are investigating these criminals. These behavioral characteristics and traits can help develop a criminal's personality profile, and greatly enhance your interrogation strategy.

There are many psychological disorders that can affect individuals; however, this module focuses on five of the most common disorders found in criminals: antisocial, narcissistic, psychopathic, paranoid, and paraphilic. Be aware that these are not absolute categories. A rapist may display the personality traits of one dominant disorder while also displaying one or two characteristics of another disorder.

Personality Characteristics and Behavior of Violent Criminals

1. Definition: Personality Disorder

   Everyone has a unique personality. Personality refers to the unique pattern of behavior, perception, and emotion displayed by each individual. The ways in which a person reacts to their environment and the people they interact with are called personality traits. People with personality disorders display inflexible and maladaptive personality traits, which impair their social or occupational functioning. Personality disorders are developed by adolescence and continue through adulthood. The deceptive side of a personality disorder is the facade of normalcy, unlike people with classic mental illnesses in which there is a major distortion of reality (not in touch with reality and may not know right from wrong).

2. Personality Disorders Common Among Criminals

   A. Antisocial

      1) Lifelong history of misconduct, i.e., as children: truant, vandalism, fighting. As adults: multiple relationships, failure to meet financial obligations, unable to hold employment, indifference toward others, and has no qualms about lying for gain or pleasure. Has little remorse about the pain and suffering that they cause others.

      2) Predominant trait: egocentric.

      3) Other traits: cunning, habitual, "actor", "macho", egotistical, low frustration level, experimenter, operator, no guilt.

   B. Narcissistic

      1) Lives a life of fantasy about their success, beauty, and remarkable talent. Narcissistic individuals are so self-focused that they look to others only to further their own goals, and are rarely attentive to the needs of others. Narcissistic individuals believe that he or she is "special" and "unique"

and can only be understood by or associate with other "special" or "high status" people.

2) Predominant trait: self-absorbed.

3) Other traits: self-entitlement, hypersensitive to criticism (real or perceived), envious of others, feelings of worthlessness and subject to depression; sense of entitlement. Their patterns of behavior are designed to extract praise, admiration, and special considerations from others, oftentimes they exaggerate unrealistically about themselves; boastful, arrogant, and rationalizing.

C. Psychopathic (combination of Antisocial and Narcissistic)

1) Found in 1% of general population, 10%-25% of offender population, bold and brazen, outbursts of anger, has little subjective distress, pathological liar, separate emotion from language: What they say is not connected with emotion (non-psychopaths do). There is a triggering event for his criminal behavior. Post offense behavior seems normal.

2) Predominant trait: domination.

3) Other traits: grandiose, forceful, sensation seeking, easily bored, callous, impulsive, no guilt.

D. Paranoid

1) Shuns close relationships. Convinced that others intend harm.

2) Predominant trait: hyper-vigilant to environment.

3) Other traits: expects to be hurt, hyper-vigilant to criticism, feels threatened (whether real or perceived), watchful and quick to react to perceived threat, brooding, find difficulty to forgive, lacks sense of humor, attempt to control environment perceiving it as a threat, tend to be provocative, quarrelsome, abrasive, and resistive to external authority and control.

E. Paraphilic

1) Recurrent and intense sexual urges and sexually arousing fantasies in response to sexual objects, situations, and non-consenting partners. Single vs. multiple paraphilias are rare.

2) Predominant trait: feels right while doing it, yet, intellectually, understands the inappropriateness.

3) Other traits: fetishism, pedophilia, exhibitionism, voyeurism, and sadism.

3. Limitations in Respect to Personality Disorders

A. Not mutually exclusive, but there is commonly a predominant personality disorder.

B. Range in the level of severity.

C. Disorders, standing alone, are not the cause of criminal behavior. They are found in non-criminal and non-violent populations.

D. The disorders are not limited to just the criminal behaviors in which they engage but are found in all aspects of their lives (i.e., social, sexual, and range in severity).

E. Are more pronounced at times of stress.

4. Application

A. Pre-offense rehearsal

1) Fantasy

2) Planning

3) Victim selection

B. Crime itself

1) Interaction with victim

2) Elements of fantasy

a. Organized or disorganized

C. Post-offense behavior

1) Reaction to crime/punishment

2) Cover up

3) Destruction of evidence

4) Repeat criminal behavior

5) Emotional reaction

6) Trophies, souvenirs

D. Victim/witness

1) Interview to determine pre-offense, crime itself, post-offense

E. Suspect interrogation

1) Behaviors associated with the personality disorders may become evident throughout the interview. If not addressed or understood by investigators it could have a negative impact on the outcome.

Reference:

Gary Lowe, LCSW
Professor- Criminal Justice
California State University, Sacramento

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Appendix 7

FBI Rapist Classifications

Rapist Classifications for Profiling

1. Power Reassurance Rapist (Gentleman Rapist)
   - A. Eighty-one percent of all rapists.
   - B. Motive/Purpose - To resolve self-doubts by reassuring himself of his masculinity with no real intent to harm his victim.
   - C. Modus Operandi (M.O.) - "Surprise" approach with force.
     - 1) Strikes between midnight and 5:00 a.m., usually at victim's residence.
     - 2) Selects through stalking.
     - 3) Victim alone or with small children.
     - 4) Minimum force necessary for control.
     - 5) If resisted, will generally negotiate, threaten, desist, or flee.
     - 6) Uses little or no profanity.
     - 7) Often demands personal verbal activity from victim - i.e., her desire or love for him.
     - 8) Will do whatever the victim allows him to do.
     - 9) Attacks in his own residential or work area.
     - 10) Usually travels on foot.
     - 11) Unselfish verbally, physically, and sexually.
     - 12) Covers his victim's face or asks her not to look at him.
     - 13) Slight increase in aggression with increased attacks.
     - 14) Frequently displays a weapon.
     - 15) If he has sexual dysfunction, usually premature ejaculation or impotency (erectile insufficiency).
     - 16) Victim in same age bracket (plus or minus three years).
     - 17) Assault done in short period of time.
     - 18) Usually single assault.
     - 19) Consistent pattern of attacks (7-15 days).
     - 20) Continues assaults until incapacitated.
     - 21) May call victim before of after assault.
     - 22) He believes that victim enjoyed experience.
     - 23) Will ask the victim to remove her own clothing.

24) May expose only the body parts he assaults.

25) Likely to apologize after the attack.

26) Often takes souvenir.

27) May keep journal or diary of assaults.

28) Victim is generally of the same race.

29) Kissing, fondling, and/or digital penetration of victim is common.

D. Characteristics of Power Reassurance Rapist

1) Inadequate personality.

2) Gentle, quiet, passive.

3) Single.

4) Previous criminal involvement includes peeping activities, fetish burglaries, and breaking and entering.

5) Nuisance offenses.

6) Underachiever.

7) Collects soft adult pornography.

8) If veteran, received general discharge.

9) Non-competitive.

10) Lives near victims.

11) Resides with parents or alone.

12) Mother very domineering.

13) Loner with few friends.

14) Frequents adult bookstores/movies.

15) Self-concept as a loser.

16) Employment with little or no contact with the public.

E. Approach to Interviewing Power Reassurance Rapist

1) Interview with empathetic counseling technique.

2) Non-police setting.

3) Non-police appearance.

4) Evening hours.

2. Power Assertive Rapist
   - A. Twelve percent of all rapists.
   - B. Motive/Purpose - expressing his virility, dominance, superiority. He is "entitled" because he is a man, e.g., will rape after two or three dates.
   - C. M.O.
     - 1) Attacks, 7:00 p.m. to 1:00 a.m.
     - 2) Usually attacks some distance from where he lives or works.
     - 3) Usually victim of opportunity, but may meet at bar or date one to two times.
     - 4) If armed, has a weapon of choice.
     - 5) If resisted, will hit, slap, and curse until he gets what he wants.
     - 6) Likely to tear clothes.
     - 7) 20-25 days between assaults.
     - 8) No contact with victim will be maintained.
     - 9) Anal assault likely.
     - 10) If sexually dysfunctional, will exhibit retarded ejaculation with wife or girlfriend as well as victim.
     - 11) Approach is direct and overpowering or con.
     - 12) Multiple assaults on victim.
     - 13) Makes little or no attempt to disguise appearance.
     - 14) Selfish verbally, physically, and sexually.
   - D. Characteristics of Power Assertive Rapist
     - 1) Very body conscious, macho, athletic-minded, and active.
     - 2) Problems in high school - did not need it.
     - 3) Does not like authority.
     - 4) If veteran, was administratively terminated from ground forces.
     - 5) No mental health case history unless court ordered.
     - 6) Multiple marriages with history of unfaithfulness, domination, and spousal abuse.
     - 7) Primary concern is his image.
     - 8) If criminal record, will be for crimes against property and domestic disturbances.

9) Uses, but not necessarily abuses, alcohol, and drugs.

10) Father probably acted same way towards his mother.

11) Socially projects macho image and frequents single bars

12) Drives a flashy car as defined by the region where the suspect lives.

13) Very self-centered, cannot stand criticism.

E. Approach to Interviewing Power Assertive Rapist

1) Press and attack.

2) Expects "respect."

3) Do not demonstrate disrespect.

3. Anger Retaliatory Rapist

A. Five percent of all rapists.

B. Motive/Purpose - To punish and degrade women - get even using sex as weapon for real or perceived injustices to him by women.

C. M.O.

1) "Blitz" style attack.

2) Occurs in own area.

3) Spends short time with victim.

4) Selects victim of same age or older.

5) Tears clothing off victim.

6) Episodic assaults - precipitated by something in life involving a domestic partner but will not assault the partner.

7) If sexually dysfunctional, will suffer from retarded ejaculation.

8) Likely to beat the victim before, during, and after the assault.

9) Favors anal intercourse followed by oral copulation (fellatio)

10) Great deal of directed profanity.

11) Ejaculates on victim's face.

12) Spontaneous - attacks anytime.

13) Typically does not kill but may.

14) If the victim dies, may defecate on the victim.

D. Characteristics of Anger Retaliatory Rapist

1) Conflicted marriage, has affairs.

2) If history of mental care, done so by court order, likely stemming from domestic abuse.

3) Quick and violent temper.

4) If an arrest history, will be for disorderly conduct crimes.

5) Alcohol abuse.

6) Involved in highly competitive sports.

7) Pornography not a factor.

8) Socially a loner - will not drink with groups.

9) Superficial relationships with people.

10) Action-oriented job to help work off aggression, i.e., laborer construction worker.

11) No specific type of car.

12) High school dropout.

13) Will feel some guilt, but will attack again, six months to one year.

E. Approach to Interviewing Anger Retaliatory Rapist

1) Start with non-hostile business approach then increase pressure.

2) May start with female interview partner, then have her leave.

4. Anger Excitation Rapist (Sadist)

A. Three - five percent of all rapists.

B. Motive/Purpose - To inflict physical/emotional pain on his victim. His aggression is eroticized.

C. M.O.

1) Most thought-out and premeditated of all perpetrators.

2) Uses a situation-determined con.

3) Once victim is under his control, dramatically changes.

4) Immobilizes via the use of blindfold, gag, handcuffs, etc.

5) Victims are strangers.

6) Crime committed long distance from his home or job.

7) Has his weapon with him, may have a rape kit (gloves, tape, rope, etc.) and a van (to provide privacy for his assault).

8) May have pre-selected private or remote location where he commits assault.

9) Sexual acts may be excessive, experimental in nature, or be pseudo-sexual acts of torture.

10) Selfish behavior.

11) May blindfold victim and describe what he is doing to victim in detail.

12) May use Polaroids, tape recorders, to record acts.

13) May employ ritualistic techniques.

14) May change patterns as he learns from experience.

15) May search for victims by cruising.

16) May select symbolic victims.

17) No remorse.

18) Victims' age may vary.

19) Episodic attacks depending on reactions of victim.

20) Dysfunction will be retarded ejaculation.

21) Likely to cut or tear clothes off

22) Commanding and degrading language, impersonal during the assault.

D. Characteristics of Anger-Excitation Rapist

1) No mental health care history.

2) Likely collects bondage, S & M, and discipline pornography.

3) Collects and reads detective magazines.

4) May collect Nazi paraphernalia.

5) Above average I.Q.

6) Very often college educated.

7) Uses, but not abuses, marijuana and cocaine.

8) No arrest record.

9) Usually in 30's and family man.

10) Compulsive - if military background, did well.

11) Difficult to apprehend.

12) Car clean and well maintained.

13) Middle class - white-collar job.

14) Extremely meticulous.

E. Approach to Interviewing Anger-Excitation Rapist

1) Dependent on variables.

2) Thinks he is more intelligent and knowledgeable than the investigator.

3) Allow the suspect to control the interview.

5. Opportunist Rapist

A. Unknown percentage of all rapists.

B. Sexual assault for sexual gratification.

C. Burglarizes homes, robs 7-11's, finds women who appeal to him and do not appear ready to violently resist, so he rapes.

D. Probable use of drugs or alcohol just before to lower inhibitions.

E. Rapes only once.

F. Usually does not hurt victim physically.

Note: Rape is often connected with other crimes (little or no premeditation).

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Appendix 8

Interview and Interrogation Strategies

General Tactics

1. The purpose of the interrogation is to elicit as much information as possible from the suspect.
2. Plan the interrogation. Design the interrogation team around the suspect rather than around the investigators.
3. Choose questions carefully. The more you question the suspect, the more you "teach" him about your case.
4. At times, male/female interrogator roles may change to fit the personality type of the offender or to meet the suspect's needs in the interrogation.
5. Practice facial expressions and body movements so that you can give suspects non-verbal communication of acceptance, or that you are unhappy with them if they lie to you.
6. “Building rapport" does not mean you have to tell the suspect he/she is normal or that you understand how he/she feels. It is making the suspect feel he/she can confess without being judged or rejected.

Psychopathic/Antisocial

1. **Theme:** "What's mine is mine, what's yours is mine."
2. If the suspect is previously unaware of being the target of the investigation, a premature approach by the authorities could drive him into more discreet activities, thus complicating the investigation.
3. Interrogating this type of suspect should be done by an experienced interrogator. These are very difficult interrogations. The interrogator should have knowledge of sadistic behavior and related methods of committing crimes.
4. Present a professional command presence, should be in a suit or uniform.
5. Address the suspect with a respectful title (at least initially)
6. Allow them to take center stage by asking open-ended questions and letting them do most of the talking.
7. These suspects generally have above-average intelligence and are cunning. They may attempt to deceive the investigator and manipulate the interrogation. They may show emotions that are not real.
8. Be aware that they are not affected by being caught in a lie or an obvious distortion. They will disregard/ignore it, and are not bothered by it.
9. They may attempt to shock you or offend you by what they say or show you as a way of disrupting or controlling your interrogation.
10. Show respect for their intelligence; act as if you are learning from them; you are generally curious about how they committed the crime.

11. Bluff with caution, if at all. However, when confronted with an apparently overwhelming body of evidence they may bargain/deal to minimize punishment.
12. Allow them to confess in the third person.
13. Be aware that psychopaths may convince you that they did not commit the crime.

Narcissistic

1. THEME: "Look at me."
2. Present a professional command presence, should be in a suit or uniform.
3. Address the suspect with a respectful title (at least initially)
4. They expect you to recognize their superior qualities
5. Begin by telling them you want to hear their side of the story because you want them to perceive that you are having a hard time believing that a person of their status would be involved in something like this.
6. Make comments that mean you understand rather than merely nodding your head.
7. Positively reinforce them for their participation
   - A. The information provided will tend to make them look better
   - B. They are totally unable to see things from any perspective other than their own
   - C. Do not expect any empathy or concern for the victim, interviewer or investigation
   - D. Actions or behavior displayed during the interview will be self-serving (e.g., tears, emotional eruptions, etc.)
   - E. They are extremely sensitive to criticism and personal attack (real or perceived)
8. Review information from the interrogation and ask for the suspect's analysis as if he were the investigator; avoid accusations and debate

Paranoid

1. THEME: "It's not my fault. I'm the victim."
2. Without compromising officer safety, remove from your clothing items that may signify authority before conducting the interrogation, such as gun, badge, etc. In short, loosen your tie and lose your uniform authority image.
3. If possible, conduct interrogation in a formal, sterile environment
   - A. Use interrogation room free of outside noises and disturbances
   - B. Be aware of physical setup of room
   - C. Offers of hospitality may be viewed suspiciously

4. Create an environment that is candid and open, yet formal. They truly believe they have been greatly wronged
    A. Use non-threatening posture/body language, maintain physical distance
    B. Use of humor is viewed as a weakness
    C. Inter-personal relationships are not important-therefore develop of rapport will be limited
5. Give them an opportunity to vent about the situation but don't try to change their beliefs
6. Make comments that mean you understand rather than merely nodding your head
7. Keep interrogation focused on facts and circumstances of the crime at hand

Paraphilic

1. THEME: "I know it's wrong but it feels good."
2. Interviewer must be very comfortable with aberrant sexual behaviors
3. Some suspects will respond better to one gender than another-check interview history
4. They tend not to believe anyone can understand how they feel-focus on post-offense remorse and guilt
5. Recognize that these behaviors are long term and the suspect will very likely engage in several
6. Deviant behaviors accumulate and are not discarded
7. Minimize the offense as a technical violation of the law: attach no moral judgment to it
8. Use soothing and reassuring voice and refer to suspects by their first names.
9. Stay away from harsh terminology (e.g., pervert, chester, molester, etc.)
10. Make them think you will not reject them no matter what they tell you. (NOTE: This must appear very genuine and not contrived.)
11. Never show doubt as to the events being investigated or in what your scene or victim has told you.
12. Let the suspect know that the "system failed" him and convey that you understand his struggle.
13. Remember that this type of suspect can compartmentalize their criminal behavior and appear normal: this type of suspect may try to keep the interviewer out of his criminal compartment to protect the "normal" façade.

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Appendix 9

Sexual Paraphilias (Sexual Deviations)

Definition

Paraphilias Receiving sexual arousal or gratification in response to objects, situations, and/or non-consenting partners

Behaviors

Sexual paraphilias are commonly referred to as "sexual deviations." The essential feature of a paraphiliac disorder is reoccurring sexual urges and sexually arousing fantasies and behaviors generally involving:

1. Non-human objects,
2. The suffering or humiliation of oneself or one's partner (not merely simulated), or
3. Children or other non-consenting partners.

For some individuals with a paraphilia, the paraphiliac fantasies or stimuli may always be necessary for erotic arousal and are always included in the individual's sexual activity (including criminal activity).

In others, it occurs only episodically, i.e., during periods of stress. At other times, the person can function sexually without the paraphiliac fantasy or stimuli. In some instances, the paraphiliac behavior may become the major sexual activity in this person's life.

It is commonly accepted that when an individual is identified as having one paraphilia, there are at least one or more additional paraphilias. These individuals rarely seek treatment on their own; usually they come to the attention of mental health professionals only when their behavior has brought them into conflict with sexual partners or society (i.e., they are arrested for criminal behavior).

Criminal Conduct

The following is a comparison of the recognized sexual paraphilias to criminal conduct:

Paraphilia	Criminal Conduct
Coprophilia – Feces.	False imprisonment, assault.
Exhibitionism – The exposure of one's genitals to a stranger.	Indecent exposure. Disorderly (lewd) conduct.
Fetishism – Nonliving objects (fetishes). The individual frequently masturbates while holding, rubbing or smelling the object or asks his partner to wear the object.	Burglary, theft, rape.
Frotteurism – Touching or rubbing against a non-consenting (or unknowing) partner.	Assault, battery, sexual battery.

Paraphilia	Criminal Conduct
Hypoxyphilia (Kotzwarraism) – Producing sexual excitement by mechanical or chemical asphyxiation (hypoxia).	Accidental death, involuntary manslaughter.
Infibulation – Cutting, alteration, branding, infusion of the genitals (one's own or another's).	Assault with a deadly weapon, kidnapping, sexual battery, mayhem.
Klismaphilia – Enemas.	Penetration by foreign object.
Masochism – The person is aroused by being humiliated, beaten, bound, or otherwise made to suffer..	Disorderly conduct; prostitution.
Necrophilia – Sexual arousal with corpses.	Burglary, unauthorized mutilation, theft.
Partialism – Exclusive focus on part of a body (living).	Sexual battery, assault, assault with a deadly weapon.
Pedophilia – Sexual attraction to another who is legally a child (prepubescent child).	Rape, lewd, or lascivious acts with a child, oral copulation, penetration by foreign object, sodomy, annoying children, child pornography, kidnapping.
Piquerism – Piercing of the body.	Assault with a deadly weapon, sexual battery, mayhem, tattooing.
Sadism – Receiving sexual arousal or gratification in response to another's suffering (physical or psychological).	Rape, oral copulation, sodomy, penetration by foreign object, assault with a deadly weapon, kidnapping, murder.
Telephone Scatologia – Talking lewdly, on the telephone, usually to strangers.	Obscene phone calls.
Transvestic Fetishism – Cross-dressing, wearing the clothing of the opposite sex.	Disorderly conduct, prostitution, theft, burglary, robbery.
Urophilia – Urine.	Assault, false imprisonment.
Voyeurism – Observing unsuspecting people who are naked or engaging in sexual activity.	Disorderly conduct; "peeping," and prowling.
Zoophilia – Animals	Sexually assaulting an animal.

Any or all of the paraphilias may be exhibited by an offender during a sexual assault of a victim (adult or child).

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Appendix 10

Web Resources

Web Sites

Web Address	Resource
http://www.nsvrc.org/	National Sexual Violence Resource Center
http://www.cmtc.tv/forensic.asp	Forensic examination forms
http://www.rainn.org/	Rape, Abuse, & Incest National Network
http://www.victimcompensation.ca.gov/	Victim Compensation and Government Claims Board

Web Based Documents

Acquaintance Rape Of College Students

Sampson, Rana. – Washington, DC : U.S. Department of Justice, Office of Community Oriented Policing Services, 2002.
http://www.cops.usdoj.gov/pdf/e03021472.pdf

Developmental Antecedents Of Violence Against Women : A Longitudinal Perspective

White, Jacquelyn W. ; Smith, Paige Hall. – Washington, DC : 2001.
http://www.ncjrs.org/pdffiles1/nij/grants/187775.pdf

Impact Evaluation Of A Sexual Assault Nurse Examiner (SANE) Program

Crandall, Cameron S.; Helitzer, Deborah. – Albuquerque, NM: Albuquerque SANE Collaborative, 2003.
http://www.ncjrs.gov/pdffiles1/nij/grants/203276.pdf

A National Protocol For Sexual Assault Medical Forensic Examinations: Adults/Adolescents

Littel, Kristin. – Washington, DC : 2004.
http://www.ncjrs.org/pdffiles1/ovw/206554.pdf

Recidivism Of Sexual Offenders : Rates, Risk Factors And Treatment Efficacy

Lievore, Denise. – Canberra, Australia : Australian Institute of Criminology, 2003.
http://www.csom.org/pubs/recidsexof.html

Risk Factors For Violent Victimization Of Women : A Prospective Study, Final Report

Siegel, Jane A. ; Williams, Linda M. – Washington, DC : 2001.
http://www.ncjrs.org/pdffiles1/nij/grants/189161.pdf

Toolkit To End Violence Against Women

National Advisory Council On Violence Against Women. 2001.
http://toolkit.ncjrs.org/default.htm

Violence Against Women : Synthesis Of Research For Law Enforcement Officials
Hirschel, J. David ; Dawson, D. J. 2000.
http://www.ncjrs.gov/pdffiles1/nij/grants/198372.pdf

A Vision To End Sexual Assault : The CALCASA Strategic Forum Report
California Coalition Against Sexual Assault. – Sacramento, Calif. : California Coalition Against Sexual Assault, 2001.
http://new.vawnet.org/Assoc_Files_VAWnet/CalCASAFinalReport.pdf

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