Successfully Investigating Acquaintance Sexual Assault
A National Training Manual for Law Enforcement

The National Center for Women and Policing
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Law and Investigative Strategy

Summary

Instructor: Law Enforcement Time Needed: 4 hours, with three 10-minute breaks Resources Needed: Conceptual Chart Handouts Statute Slide Handouts Numbered Case Scenario Handouts Case Scenario Analysis Handouts

Task 1

For each of the various "types" of sexual assault offenses, formulate the elements of the offense, the likely defense, and the evidence required in an investigative strategy.

Presentation: Brief lecture Time: 15 minutes Handouts: Conceptual charts Statute slides

Subtask 1.1

Determine whether the incident constitutes sexual penetration versus sexual contact.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to sexual penetration, contact and related concepts

Subtask 1.2

Discuss the types of evidence needed to overcome a denial defense.

Presentation: Brief lecture Time: 10 minutes

Subtask 1.3

Determine whether the assault was committed using force or threat versus a situation in which no force is required.

Presentation: Brief lecture Time: 10 minutes
**Subtask 1.4**

Identify the specific sexual assault offenses based on force or threat.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to the definition of force and offenses based on force.

**Subtask 1.5**

Anticipate a defense strategy based on identity versus consent.

Presentation: Brief lecture Time: 10 minutes

**Subtask 1.6**

Discuss the types of evidence needed to overcome an identity defense.

Presentation: Brief lecture Time: 10 minutes

**Subtask 1.7**

Discuss the types of evidence needed to overcome a consent defense.

Presentation: Brief lecture Time: 10 minutes

**Subtask 1.8**

Recognize that a consent defense is precluded in offenses that are based on a situation in which no force is required.

Presentation: Brief lecture Time: 10 minutes

**Subtask 1.9**

Discuss the elements, likely defense(s), and evidence needed in a case based on the victim's unconscious state.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to offenses with an unconscious victim.

**Subtask 1.10**

Discuss the elements, likely defense(s), and evidence needed in a case based on the victim's incapacitated state.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to offenses with an incapacitated victim.
**Subtask 1.11**

Discuss the elements, likely defense(s), and evidence needed in a case based on the victim's disability.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to offenses based on victim disability.

**Subtask 1.12**

Discuss the elements, likely defense(s), and evidence needed in a case based on the victim's age or status.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to offenses based on the victim's age or status.

**Subtask 1.13**

Discuss the elements, likely defense(s), and evidence needed in a case based on other situations.

Presentation: Brief lecture Time: 10 minutes OH's pertaining to offenses based on other situational factors.

**Task 2**

Recognize the four general purposes for evidence in a sexual assault case.

Presentation: Brief lecture Time: 5 minutes

**Task 3**

Analyze case scenarios for the "type" of offense committed, relevant citation, elements to be proven, likely defense(s) types of evidence needed, and the purpose for each type of evidence.

Presentation: Case scenario analysis Time: 60 minutes Handouts: Numbered case scenarios Case scenario analysis

Have participants randomly select 6 numbers between 1 and 23. Then ask them to circle one of these randomly selected numbers. Once participants have selected their numbers, provide them with the list of case scenarios and the handout for a case scenario analysis.

First, inform participants that they are to identify the correct citation for each of the offenses in the 6 numbered scenarios that they have chosen. Second, ask them to complete the case analysis for the scenario that corresponds to the number they circled.

Walk through the case scenario handout and briefly describe the tasks to be completed, to ensure that participants understand the directions. Ask if participants have any questions before providing
time to work quietly on their own. As they work, circulate around the room to be available for participant questions.

Of course, depending on time the instructor can vary the number of cases for which participants are to identify the citation and/or conduct a full analysis. The instructor can also vary whether participants report back in learning pairs, small groups, or to the entire class. In final discussions, make sure to highlight the importance of basing an investigative strategy on the appropriate "type" of sexual assault case and the consequences of misclassifying the case and misdirecting the investigation.

**Case Scenarios: Law and Investigative Strategy**

1. A stranger approaches Jane as she is getting into her car. He shoves her into the car and pistol-whips her face until several bones are broken. He then pulls down her pants and removes his penis from his own. At this point, another car pulls up next to Jane's, and the stranger flees.

2. Jane answers her doorbell and a stranger shows her a knife and tells her he will cut her if she doesn't perform fellatio. She complies.

3. Jane answers her doorbell and her co-worker John shows her a knife and tells her he will kill her four-year-old son who is sleeping in the next room, if she doesn't perform fellatio. She complies.

4. Jane is 18 and knows that John is twelve. She has vaginal intercourse with John.

5. Jane is at a party and drinks until she passes out. John sees her, and takes the opportunity while Jane is passed out to move his penis in and out of her mouth.

6. Jane is at a party and drinks until she passes out. John takes the opportunity to touch her inner thighs and buttocks for the purpose of sexual gratification.


8. Jane is severely mentally retarded and John knows this. He intentionally touches Jane's breast and thighs for the purpose of sexual gratification.

9. Jane is severely mentally retarded and John knows this. He performs cunnilingus on Jane at his apartment.

10. John and Jane are at a party, and both are drinking. Although John has only two beers throughout the night, he brings Jane seven or eight and she is so intoxicated that she is barely able to walk or communicate. John coaxes Jane to lean on him while he assists her into the bedroom, where he has anal intercourse with her.

11. John and Jane live together as cohabitators. The two are drinking together and John convinces her to try GHB for "a great high." Jane takes the drug and is barely able to walk or communicate.
John then carries Jane into the bedroom and has vaginal intercourse with her. Jane has very little recollection of events after taking the drug.

12. John and two male friends go over to Jane's house. The two friends hold Jane down while John pulls down her pants and moves a bottle toward her vagina, saying that he is going to shove it inside of her. Before the bottle makes contact with Jane's genital area, her husband comes home and John and his two friends flee.

13. John has filed for divorce and is separated from his wife Jane. John climbs in through Jane's bedroom window while she's sleeping, holds her down and has just touched his penis to her genital area when a noise startles Jane awake and causes John to flee.

14. John invites Jane over for dinner. John gives Jane a couple of drinks and convinces her to take a strong painkiller. Jane is unable to respond when John asks her to touch him. He knows she is unable to respond and he intentionally rubs his penis against her for the purpose of sexual gratification.

15. John is 17 years old and knows Jane is 14. He inserts his fingers in her vagina.

16. John is a college student who works as a lifeguard. Jane is 15 and enrolled in his water safety class. John intentionally touches Jane's breast whenever he demonstrates a lifesaving technique on her during class.

17. John is at a party and drinks until he passes out. Dave and two other men at the party take John to a bedroom and while they are all in the room Dave and one of the other men have anal intercourse with John.

18. John is being detained in a residential program. A supervisor in the program has intercourse with John.

19. John is being detained in a residential program. A supervisor in the program intentionally touches John's penis for the purpose of sexual gratification.

20. John is Jane's neighbor. He agrees to drive her to and from outpatient surgery. When she gets home, she takes a strong painkiller and is unable to respond when John asks her to have sex with him. He knows she is unable to respond and has vaginal intercourse with her.

21. John points a pistol at Jane and tells her not to move. John fondles her breast, inner thigh, and genital area and is sexually gratified by this action.

22. John pushes Jane up against the wall and fondles her breast for the purpose of sexual gratification.

23. John regularly beats his wife Jane. He tells Jane if she doesn't perform fellatio and submit to vaginal intercourse he will beat her up worse than usual. She complies.
Case Scenario Analysis: Law and Investigative Strategy

Type of offense: (select one from each pair)

Sexual Penetration vs. Sexual Contact

Force or Threat vs. No Force Required

Completed Offense vs. Attempted Offense

Known Offender(s) vs. Unknown Offender(s)

If the offense is based on a situation in which no force is required, please identify the basis of the offense (select one).

The victim's unconscious state

The victim's disability

The victim's incapacitated state

The victim's age or status

Another situation, please specify: ________________________________

Likely defense: (please circle)

Denial

Identity

Consent

Suspect did not know or could not have known about the victim's state

Suspect did not know or could not have known about the victim's age or status.

Other, please specify: ________________________________

The following is a description of the elements to be proven in each of the various "types" of sexual assault cases. Based on the "type" of case and likely defense you selected above, please describe the kinds of evidence you would need. For example, if your case involved a completed act of penetration, committed by a known offender, using force or threat, you would describe the kinds of evidence needed to establish the primary elements of (1) sexual activity (penetration) and (2) force or threat. You would also want to describe secondary evidence that you would want to confirm (3) identity. From the scenario, guess what kinds of evidence you might find in this case to establish each of these elements.
Elements to be proven-------------------Types of evidence used to prove this element

Sexual activity (penetration or contact)

Identity of the suspect

Force or threat

Victim's state (e.g., unconscious or incapacitated)

Suspect's knowledge of the victim's state

Victim's disability

Suspect's knowledge of the victim's disability

Victim's age or status

Suspect's knowledge of the victim's age or status

Other, please specify:

**Instructor Preparation: Preparing Slides to Teach State Statutes**

Because it can be difficult to provide instruction for law enforcement audiences in the specific details of sex crime statutes, the following material is provided as a guide. Specific steps are provided for trainers to prepare a curriculum pertaining to state statutes.
Step 1: Prepare slides with the terminology, definitions, and citations for the following concepts. Definitions can be very brief and conceptual, rather than including the full text of the statute. Put one definition on each slide for ease of presentation.

- Sexual penetration/intercourse
- Sexual contact (other than penetration)
- Force, threat, or fear
- Disability affecting cognition or communication
- Unconsciousness or other incapacitation
- Other statutory definitions required to understand the various sexual assault offenses

Of course, the specific terminology in each state will vary, but you will need to have a slide representing each of the statutory definitions that are required for participants to fully comprehend the sexual assault offenses to follow.

Step 2: Prepare slides with the various offenses categorized according to the conceptual charts provided at the beginning of the module. Offenses should thus be categorized into the following conceptual groupings and provided with the citation, classification, and sentence. Again, the elements of the offense can be presented briefly and conceptually rather than in the full text of the statute. This will facilitate presentation and comprehension by participants.

Sexual penetration committed with:
- The use of force, threat, or fear (including weapons)
- An unconscious or incapacitated victim
- A victim with a disability
- Various age/status combinations between victim and suspect
- Any other conditions that constitute criminal behavior

Sexual contact committed with:
- The use of force, threat, or fear (including weapons)
- An unconscious or incapacitated victim
- A victim with a disability
- Various age/status combinations between victim and suspect
• Any other conditions that constitute criminal behavior

Although the penal code in your state might not be organized in this way, this kind of conceptual structure greatly facilitates teaching this difficult material. Most state penal codes are organized by degree of offenses (sexual assault in the first degree, second degree, etc.), including a mix of various types of behavior within each offense.

Unfortunately, this kind of offense structure is very difficult for participants to learn and retain. By organizing the various offenses in a coherent conceptual structure, they are vastly easier to teach and - more importantly - to learn.

Step 3: Prepare slides with aggravating factors, the statute of limitations, and requirements to constitute an attempt offense. Again, make sure to include the elements and citation, along with the classification and sentence for aggravated and attempt offenses.

Step 4: Prepare slides for any other statutes that you think are critical for officers or investigators to know in your state. These could include statutes pertaining to:

• Stalking
• Public indecency
• Obscenity
• Specific defenses available
• Protective/restraining orders
• Sex offender registration
• Conditions of bail

Step 5: Integrate the slides with instructional content, so they are presented in the order that corresponds to the tasks and subtasks outlined in the curriculum.

Step 6: Prepare a handout for participants with 6 slides to a page, to use when identifying the citation for selected case scenarios.

Step 7: Prepare briefly described scenarios to use as quiz material for participants. Feel free to use any or all of the examples provided with the NCWP curriculum, or develop your own to correspond to the state penal code. Make sure that instructional time is structured to allow participants to work with these scenarios and identify the appropriate penal code citation.