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The Preliminary Investigation Curriculum

Summary

Instructor: Law Enforcement Time Needed: 8 hours for full preliminary investigations module. This time includes one hour for lunch and two 20-minute breaks. Resources Needed: Overhead projector Flip Chart/pens TV/VCR

Task 1

Recognize common reactions and experiences of women who have been sexually assaulted and avoid making judgments.

Presentation: Option 1: Video and discussion Option 2: Presentation by survivor Time: 60 minutes Materials: Video Impact Handout

Option 1

Show excerpts from the video "Rape By Any Name," produced by Discover Films Video. This film depicts the reactions of several women to rape victimization by a nonstranger. To order a copy call, 1-888-649-6453.

Briefly describe the film to participants and ask them to think about the various reactions and experiences before, during, and after the assault. After the video is completed, provide the Victim Impact Handout to participants and ask them to take a few minutes to jot down any reactions that they recall the victims describing before, during and after the assault. Give participants a few minutes to write their responses, and then ask for ideas for each category.
First, ask participants to describe the reactions of victims to any significant behavior of the perpetrator before the assault. Ask for volunteers to report one of their responses that have not already been mentioned by the group. Generate responses until the group appears to have exhausted their list, and then move on to the victim reactions described during and after the assault. Finally, allow a few minutes for open-ended discussion.

The point should be made that while there are many common experiences among those victimized by rape, there is also diversity in their reactions. Ultimately, no two victims will ever respond identically to rape. Police must therefore be cognizant of victim reactions that are common, but they must also maintain flexibility to handle whatever demeanor is presented.

Option 2

Have a survivor come in to tell her story of rape victimization by a nonstranger. Of course, this should only be done if the survivor can communicate clearly and powerfully with law enforcement audiences. The survivor should be advised to describe basic events of the assault (before, during, and after) and then talk about the impact of this event on his/her life. After the survivor has completed telling her story, the advocate can then talk about how these experiences are common among those victimized by rape.

The point should be made that while there are many common experiences among those victimized by rape, there is also diversity in their reactions. Ultimately, no two victims will ever respond identically to rape. Police must therefore be cognizant of victim reactions that are common, but they must also maintain flexibility to handle whatever demeanor is presented.

Task 2

Recognize the unique factors of responding to a hot call vs. a delayed report.

Subtask 2.1

Explain the unique elements involved in responding to a hot call.

Presentation method: Brief Lecture Time: 5 minutes

Subtask 2.2

Explain the unique elements involved in responding to a delayed report.

Presentation method: Brief Lecture Time: 10 minutes

Task 3

Analyze the elements of the preliminary investigation.
Subtask 3.1
Discuss safety issues and the initial contact with the victim.
Presentation method: Lecture Time: 10 minutes

Subtask 3.2
Establish that a crime has occurred.
Presentation method: Lecture Time: 5 minutes

Subtask 3.3
Evaluate procedures when the suspect is present at crime scene.
Presentation method: Lecture Time: 5 minutes

Subtask 3.4
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. 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.

Task 4
Discuss the role of the advocate.

Presentation method: Lecture (This lecture should be delivered by an advocate.)
Time: 45 minutes
Task 5

Discuss the scope of the evidence collection process.

Subtask 5.1

Understand how to identify and secure the crime scene.

Presentation method: Lecture Time: 5 minutes

Subtask 5.2

Evaluate the need for a search warrant.

Presentation method: Lecture Time: 5 minutes

Subtask 5.3

Identify and collect potential evidence.

Presentation method: Option 1. Video Presentation (The Accused--The instructor is encouraged to rent this film to conduct the exercise below.)

Option 2. Group listing exercise Time: 60 minutes

Option 1:

View the film clip specified above from the movie, "The Accused." In this scene, a woman named Sarah is gang raped by several men she knows in the back room of a bar, while a number of other men cheer. Briefly explain to the participants the content of the video presentation.

After the scene is complete, stop the videotape and ask participants to describe the types of evidence that they would need to either collect or secure as first responding officers. Allow 15 minutes for participants to call out ideas. Record them on a flip chart or overhead.

Once participants have exhausted their list of ideas, ask them to identify whether the evidence that they have described would be used to challenge a consent defense or an identification defense. The participants will probably admit that most of the evidence discussed is used to identify a suspect. In this case however-as in the majority of sexual assault cases-the victim already knows who the suspects are.

Next, assign participants to groups of 4-6 and ask them to take 15 minutes to generate creative suggestions regarding evidence that would establish the level of force and threat that was used to perpetrate the assault depicted in the movie. After participants appear to have completed their discussion, call on a group to share their ideas. Continue calling on each group to add ideas only if they have not already been mentioned.
Allow 15 minutes to discuss the ideas generated by the groups and offer any additional suggestions. Use this opportunity to highlight the scope of the evidence collection process when the anticipated defense will be consent.

Note to Instructor: This exercise is also applicable when training sexual assault investigators (detectives) on processing evidence when the anticipated defense is consent.

Option 2:

Assign participants to groups of 4-6 and ask them to take 15 minutes to write down what evidence they would collect at the crime scene when the anticipated defense is identification.

After the groups appear to have completed their discussion, call on groups to share their ideas. Continue calling on each group to add ideas only if they have not already been mentioned. This process should take approximately 15 minutes.

Next ask each group to write down what evidence they would collect at the crime scene of a sexual assault when the anticipated defense is consent. Allow them 15 minutes to generate ideas. Ask participants to think about what would be different in this evidence collection process.

Again, after the groups appear to have completed their list call on each group to share their ideas. Use the remaining time to lecture and answer any questions.

Task 6

Evaluate the role of patrol in responding to the victim.

Subtask 6.1

Discuss the information needed from the victim in a preliminary investigation.

Presentation method: Lecture Time: 10 minutes

Subtask 6.2

Consider the victim's physical and emotional well-being.

Presentation method: Lecture Time: 10 minutes

Subtask 6.3

Determine when to obtain a forensic sexual assault examination.

Presentation method: Self-test with review Time: 30 minutes Materials: Self-test handout

Provide a handout to participants with brief scenarios of sexual assault cases reported to police. For each scenario, ask participants to decide whether to obtain a forensic examination of the victim.
Subtask 6.4

Practice a preliminary interview with the victim.

Presentation method: Role-play Time: 45 minutes

Conduct a **sequential role-play** in order to give participants practical experience in conducting an initial interview with the victim of a sexual assault. A female instructor or participant should play the role of the victim. (If a female participant is going to play the role of the victim, provide her with the instructions for her role-play during a break and allow her to become familiar with the victim.) The instructor should choose the first participant to play the role of the responding officer.

Inform the class of the structure of this role-play and inform them that you will attempt to involve as many students as possible. The first officer will interview for no longer than five minutes and will then turn the interview over to another officer. The role-play should follow the normal steps of an initial interview of a victim. As the instructor, you should inform the participants of what each step would be and what they should be concerned about in the sequence of the role-play. At the end of each role-play allow the interviewer and the victim to make comments. The instructor should then briefly give feedback to the officer and the class.

Set up two chairs in the front of the class. Briefly explain to the participant their instructions as the responding officer in this case.

The following are the instructions for the role-play scenario:

**The Victim**

Your name is Donna Anderson. You are your own age. Last night you went to a party at a friend's apartment in the same building in which you live (404 Main Street). While at the party, you met a man named John Smith whom you have seen at several other parties. You thought he was rather attractive and began a conversation with him. Due to the large number of people at the party and the volume of the music, you and he were having difficulty hearing each other. He asked if you would like to go somewhere quieter and you suggested that you walk over to your apartment. He agreed.

When you arrived at your apartment, your roommate was gone. You went into the living room and sat on the sofa next to each other. You offered him a beer, and both of you drank one. While at the party, you had two beers but did not consider yourself intoxicated. As you were sitting on the couch next to each other, you began to kiss. You voluntarily took off your blouse. At one point, John moved on top of you, pushing you down on the couch, and he began to try to remove your skirt. You stopped him, pushing him away gently and said, "No, Not yet." John pushed your hands away...
and said, "I know you really want it, quit being a tease." Again you said no and began to get up from the couch. John pulled your arm to stop you and you tried to pull away from him. He then slapped you in the face and began to pull your skirt off.

John then forcibly held you down and pulled your underwear off. He then had vaginal sexual intercourse with you. During the offense, you began crying. You were afraid that he was going to hit you again and didn't know how to stop him. Since no one was home in the apartment, you did not think anyone would hear you if you yelled out. After John ejaculated, he got up from the couch and left the apartment, saying he was going back to the party. Before he left, he told you to stop crying because it really wasn't such a big deal. After he left, you went into your bedroom and cried.

Your roommate came home at about 2:00 this morning and when you heard her come in, you got up and told her what happened. She tried to talk you into calling the police, but you felt like no one would believe you anyway. By the morning, she had convinced you to go to the hospital to be examined. After you arrived at the hospital, you told a nurse what had happened. She recommended that the police are notified and you finally agree. You feel uncomfortable talking about the incident, and are not quite sure what to do.

**Officer Dispatch**

You have been dispatched to respond to your local hospital's emergency room to speak with the victim of a sexual assault. The victim's name is Donna Anderson. The assault occurred last night at 404 Main, your jurisdiction. The suspect is an acquaintance of the victim. The reporting person is a nurse at the emergency room. The victim knows that the police have been notified. Upon your arrival at the hospital, you are unable to speak with the nurse who reported the incident. She is very busy and it will be a while before the doctor or nurse can get to the victim. You are told that the victim is waiting in an examination room. A doctor has not yet examined her.

**Task 7**

Evaluate the role of the responding officer in investigating the suspect.

**Subtask 7.1**

Discuss the process for identifying and locating the suspect.

Presentation method: Lecture Time: 10 minutes

**Subtask 7.2**

Determine whether an immediate arrest should be made.

Presentation method: Lecture Time: 10 minutes

**Subtask 7.3**

Discuss the purpose of a preliminary suspect interview.
Presentation method: Lecture Time: 5 minutes

**Subtask 7.4**

Determine the need for a forensic examination of the suspect.

Presentation method: Self-test with review Time: 10 minutes Materials: Self-test handout

Tell participants to review the "Self Test" they completed to determine the need for a victim forensic examination. This time, ask them to decide whether to obtain a forensic examination of the suspect. Give participants several minutes to complete the self-test, then review the correct answers and discuss the underlying guidelines.

**Victim Impact Handout**

Now that you have seen the video on victim impact, please take a moment to describe the reactions and experiences of these women before, during, and after the assault.

**Before the Assault**

(reactions to the pre-assault behaviors and warning signs of the perpetrator)

**During the Assault**

(reactions of the victim during the assault)

**After the Assault**

(reactions of the victim both in the immediate and long-term aftermath of the assault)

**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 assist 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 filled 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 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

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: ________________________________

Citation for the specific offense committed:

_________________________________

Any aggravating factors:

_________________________________

Corresponding sentence:

_________________________________

Likely defense(s):
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: _______________________________________________________

Elements to be proven-------------------Types of evidence 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:

**Self-Test: When to Obtain a Forensic Sexual Assault Examination?**

1. The victim reports to police that she was vaginally raped last night by a stranger. When interviewed by the reporting officer, she indicates that she has showered and taken special care to wash her genital area. While doing so, she noticed soreness "down there." No suspect has yet been identified.
   
   • Should a forensic examination be conducted with this victim?
     
     • Yes
     
     • No

2. The victim reports to police that she was raped around midnight on Friday night by a friend of her boyfriend's. It is now Monday morning. The victim indicates that she just wanted to forget about the incident at first, but after several sleepless nights she realizes that this won't happen. She indicates that her assailant forced her to have intercourse and give him a blowjob. He did not, however, use any physical force and the victim sustained no serious injuries. Although she doesn't know where the suspect lives, she knows that her boyfriend does.
   
   • Should a forensic examination be conducted with this victim?
     
     • Yes
     
     • No

3. A 16-year old victim reports that she was "finger fucked" by a classmate at a party last night. He was an older student that she liked, but he surprised her outside the bathroom by suddenly holding her against the wall and slipping his hand down her pants. When he stuck several fingers in her vagina, she yelled in surprise and he removed his hand. He laughed and asked her if she let all the boys do that. She knows where this classmate lives, since the party was at his house.
   
   • Should a forensic examination be conducted with this victim?
     
     • Yes
     
     • No

   • Do the victim's parents need to provide consent for the exam?
     
     • Yes
     
     • No
4. A male victim reports that a co-worker sexually assaulted him one week ago. He indicates that he was rectally penetrated and forced to perform fellatio on his assailant. The victim was reluctant to report because he feared that he wouldn't be believed, but the injuries he sustained during the assault have been slow to heal. In addition, he is afraid of contracting the HIV virus, and this concern brought him into the hospital where the nurse contacted police. The assault involved physical violence, and bruises and lacerations are still visible on the victim's body.

- Should a forensic examination be conducted with this victim?
  - Yes
  - No

5. The victim reports that she was vaginally raped a week ago by her husband. They have since had consensual intercourse. Although her husband is occasionally violent, he did not use any physical force to perpetrate the sexual assault. The victim therefore sustained no injuries as a result; she complied out of fear for what he might do.

- Should a forensic examination be conducted with this victim?
  - Yes
  - No

6. The victim reports that she was almost raped the day before yesterday. She was studying with a young man from her college class, when he turned aggressive and pinned her down. First, he pushed her shirt up and sucked on her breasts before attempting to vaginally penetrate her. Although his penis did not make contact with her vagina, it did rub against her thighs before a noise distracted him and allowed the victim to escape. Because they were studying in his dorm room, she knows where this classmate lives.

- Should a forensic examination be conducted with this victim?
  - Yes
  - No

7. A 19-year old victim reports that she thinks she was raped sometime between midnight and 5:00am. She was at a rave party where a man she didn't know offered her a pill that he said would make her feel great. She asked if it would knock her out, and he said it wouldn't -- that she would be fully conscious but just feel really good. After taking the pill at around midnight, the victim says that she started to feel weird and then cannot remember anything until she woke up in the bathroom around 5:00am. Although she can't say with certainty that she was raped, her clothes were disheveled, her vagina was sore, and there were stains on her underwear. She doesn't know who the man was who offered her the pill, but she thinks her friends might.

- Should a forensic examination be conducted with this victim?
8. The victim reports that she was vaginally raped Tuesday night by a man that she was dating casually. It is now Friday afternoon. The two had been on several dates, but on this occasion he turned aggressive in his car and forced her to have intercourse. The assailant used his body weight to pin her down, and the victim was afraid to try to escape because they were parked in an isolated campground. She sustained no injuries. Prior to the rape, the two had been drinking beer and smoking crack together. She knows where the suspect lives because she picked him up there for a previous date.

- Should a forensic examination be conducted with this victim?
  - Yes
  - No

- Should a drug screen be conducted with this victim?
  - Yes
  - No